



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

Special Joint Committee on the Declaration of Emergency

EVIDENCE

NUMBER 012

Thursday, September 22, 2022

Joint Chairs:
The Honourable Gwen BonifaceMr. Matthew GreenMr. Rhéal Fortin



Special Joint Committee on the Declaration of Emergency

Thursday, September 22, 2022

• (1835)

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin (Rivière-du-Nord, BQ)): I call this meeting to order.

Welcome to meeting No. 12 of the Special Joint Committee on the Declaration of Emergency, created pursuant to the order of the House of Commons on March 2, 2022, and of the Senate on March 3, 2022.

Today's meeting is taking place in hybrid format, in accordance with the order of the House of Commons dated November 25, 2021.

In the event of technical challenges, please advise me, so that we can suspend for a few minutes, if necessary, to ensure that all members are able to participate fully in the meeting.

We will now turn to our agenda, the future work of the Committee.

Does anyone wish to present a motion? I believe Mr. Motz would like to table some motions.

Let us begin with the first notice of motion from Mr. Motz. Motion 1 reads as follows:

That the Committee deem the evidence, including testimony and documents, received by, and published on the websites of, standing committees of the House of Commons and the Public Order Emergency Commission, in relation to the February 2022 public order emergency and matters consequential to it, to have been received by this Committee and may be used in its reports, provided that it shall not limit the questions which may be asked of witnesses appearing before the Committee or documents which may be requested or ordered to be produced by the Committee.

Does anyone wish to speak to this motion?

Ms. Rachel Bendayan (Outremont, Lib.): A point of order, Mr. Chair.

Just to be sure I understand correctly, will we be reviewing all the Conservative motions?

For our part, we would like to present a motion, when you see fit. Perhaps my colleagues from the NDP or some senators also have motions to propose.

I just want to understand how the meeting will unfold.

The Joint Chair (Mr. Rhéal Fortin): Personally, I have no objection if you wish to present a motion.

Right now, I just have the eight notices of motion from Mr. Motz. I will read them one after the other, and we may propose amendments.

We can consider your motion after that, unless you have any objection.

Ms. Rachel Bendayan: Very well. Thank you, Mr. Chair.

The Joint Chair (Mr. Rhéal Fortin): Is there unanimous consent on Motion 1?

Voices: Agreed.

(The motion is adopted.)

The Joint Chair (Mr. Rhéal Fortin): The second motion is as follows:

That the Committee direct the Joint Clerks to invite each individual or organization listed on the analysts' work plan, dated May 11, 2022, to submit a brief to the Committee for its consideration, with briefs encouraged to be provided to the Joint Clerks within one month of the adoption of this motion, provided that the Joint Clerks shall arrange for translation of the briefs received and circulate them to Committee members and publish them on the Committee's website upon completion of the translation.

Does anyone wish to speak to the motion?

Mr. Virani, you have the floor.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thank you, Mr. Chair.

I am pleased to see you and all my colleagues again. I hope everyone had a nice summer.

[*English*]

With respect to this motion, it may be wise to address it now or we could table it until a bit later.

Our principal preoccupation with this motion is that it seems somewhat premature as we don't know which witnesses will be arriving or what the testimony of those witnesses will be. We do have some concerns. The analysts have done a lot of work. A lot of names have been suggested by the analysts and by the various parties. It might be wise and more prudent to vet those lists and cull them to reduce the number to something more manageable before we entertain motions such as this about submitting briefs.

I will leave my submission there.

Merci.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Senator White, you have the floor.

[*English*]

Hon. Vernon White: Thank you very much.

Similarly, I'm a little bit concerned about a blanket.... I too would like to get a list of the witnesses and a list of what they've presented to date and when we expect to see those witnesses in the future before going through and asking for what's requested in this motion. I'm not agreeing or disagreeing at this point, but I don't believe we should follow it at this point in time. I would like to delay this one or set it aside for future discussion.

• (1840)

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): It is your turn, Mr. Motz.

[*English*]

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Chair.

With respect to my colleagues, I think the idea here was not that every witness who is on the list is.... That's the expectation. I think there are some who we obviously are still going to want here in person, even if they supply a brief. This might provide us with an opportunity to weed out some of the witnesses we may not require. It may be efficient for the working of this committee.

It never hurts to have more information than less. That was the whole idea behind this, which is that we would gain a lot of committee efficiency if we actually invited those who are on our list of witnesses—organizations included—to supply a brief. They don't necessarily have to.

That was our thought.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): We are listening, Senator White.

[*English*]

Hon. Vernon White: I'd like to look into the whites of their eyes when I'm reading their brief rather than just read a brief. I think we need to be able to debate and ask questions. I've seen the witnesses we've had to date and I don't think I would have accepted just a brief from any of those witnesses. I would have expected to be able to ask tough questions of witnesses.

I would rather do that, at this point anyway. We may end up there, but at this point I would rather have them in front of us.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Brock, you have the floor.

[*English*]

Mr. Larry Brock (Brantford—Brant, CPC): I also welcome back every member of this committee. It's good to be back and it's good to see smiling faces.

I think there is a middle ground here. I think the spirit is perhaps lost in the language of this particular motion.

We are trying to move this committee forward with a reasonable expectation of an end date. Keeping that goal in mind, when I reflect upon the sessions that we had last year, one word comes to mind. I was left with this pretty much each time I attended. It was frustration. It was frustration given the format of this committee and the nature of a very brief five-minute overview, which for some witnesses only scratched the surface. It was frustration at the limitations we have in terms of the minutes assigned to each particular questioner. These are issues we're going to get into later on this evening or, if not today, some other day.

I think it's very appropriate that I address Senator White's commentary head on. I agree with him that, wherever possible, it is always preferable to have witnesses attend and to be able to question those witnesses. I'll use the term “cross-examination”, given my previous background.

We have such a volume of witnesses left to be heard. I think if we, on a week-to-week basis, start to project the number of witnesses for the following week, we may come to a conclusion that some witnesses are not as controversial as others. Therefore, we could invite them to submit a written brief that we'd all be satisfied with. Moreover, say we do get a written brief. We are not precluding any member's ability, with this particular motion and other motions, to have an opportunity to question a particular witness.

I think it was necessary for me to put on the record a more robust background as to why we drafted that particular motion.

Thank you, Mr. Chair.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you.

Mr. Green, you have the floor.

Senator White, you will be next.

We are listening, Mr. Green.

[*English*]

The Joint Chair (Mr. Matthew Green (Hamilton Centre, NDP)): Thank you very much.

I would like to take the opportunity to go on the record and say that I certainly share some of the frustrations that have just been identified. I think, reflecting back on our opening statements, that the general intention of this committee was that it be a fact-finding committee, to be able to establish a certain set of facts so we could then provide recommendations back to the House of Commons and the Senate on what was, in my opinion, a fairly important, extreme and historic moment in Canadian history.

I think using this to provide what I read, in the spirit of the motion, as a bit of a deposition statement that goes beyond introductory remarks and that would allow these witnesses to establish the facts as they see them would give us a better ability, when in person, to question those facts rather than use the five minutes to establish facts that in many cases, quite frankly, they were just refusing to provide us. I want to put it back on the table that we had many witnesses come to this committee and just flat out refuse to co-operate. I think that's a problem.

I'm in favour of a written process that goes beyond introductory remarks, and particularly on some of the more sensitive issues, things that we might deem necessary to be read and kept in camera given the sensitivity of the security of the matter, I would like to see and have the ability to prepare for some of these witnesses in more meaningful ways.

I'll conclude with this: My frustration over the summer was that through the media and through FOI reports we were able to establish more facts over two months through the media doing their work than, in my opinion, we were from the witnesses who were present here. Oftentimes, I would find that witnesses were refusing to provide answers that they knew would eventually become public just, in my opinion, in order to frustrate this committee.

I'd like to move beyond that and hopefully get a greater level of seriousness from witnesses so that when they come here they're going to come prepared to answer the questions we have at hand after establishing the facts that they're going to be presenting to this committee through this motion.

• (1845)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

Senator White, you have the floor.

[English]

Hon. Vernon White: I almost promise this is the last time, Mr. Chair.

If nothing else, I would like to actually have a chance over the next two weeks to go through the list of witnesses we've had and the material we've had, because—I have to be honest—I can think of maybe only two witnesses for whom I don't have a request for more information. I'd like us to adjourn this for at least the next couple of weeks until I can go through a list of witnesses we've had and what our projection is and maybe then hear it again.

Is that okay?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): What do you think, Mr. Motz?

[English]

Mr. Glen Motz: Chair, if I may, again, it's our motion. I would agree to that.

We could suspend discussion on this until we have a chance to look at some more witnesses and then bring it back in maybe two or weeks or 10 days from now.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Does everyone agree to suspending our consideration of Motion 2?

We therefore suspend our discussion of Motion 2.

Let us move on to Motion 3:

That the Committee send to each individual or organization listed on the analysts' work plan, dated May 11, 2022, written questions submitted by the members of the Committee for response, provided that (a) members shall provide their questions to the Joint Clerks within three weeks of the adoption of this motion; (b) members may designate up to five questions per individual or organization as "priority questions"; (c) individuals or organizations shall be directed to respond (i) to priority questions within three weeks of the Joint Clerks sending them, and (ii) to all other questions within six weeks of the Joint Clerks sending them, provided that a failure to respond to questions shall be approached by the Committee as if a witness declined to respond to an oral question asked at a Committee meeting; and (d) the Joint Clerks shall arrange for translation of the responses received and circulate them to Committee members and publish them on the Committee's website upon completion of the translation.

Mr. Green, you have the floor.

• (1850)

[English]

The Joint Chair (Mr. Matthew Green): In a practical way, on the way it reads, I would assume that it's every member who would get the opportunity, or would it be allocated based on seats in terms of us getting five and you getting 15? I take that and I put it up against the witness list, and I just don't know if it's practical, if I'm being honest, in terms of what is before us.

That's not to say when witnesses arrive, should there be answers that are left unfulfilled, then maybe there can be an amendment to this that would codify our ability to have follow-up questions, within reason, that would demand for the evidence to be returned, and not necessarily make it as an optional response to committee.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

Mr. White, you have the floor.

[English]

Hon. Vernon White: I'm in a not dissimilar place.

I think this will be a new bible that we'll be writing if we do this, particularly as to the types of questions we want to ask. I do think we missed some opportunities with our last witnesses. I felt that I was often left with more questions than I received answers at the end of some of those presentations, so I would like to see them again back in front of us.

I would totally support that if we get to a point of having a witness where we still have a lot of questions we be permitted to provide a list of written questions with an expectation for a list of written answers within seven days of their having been a witness or something like that. Obviously we can't obligate some of those witnesses to provide answers, but I think we should do everything we can to do that. I would support that. Although I understand why you're asking it, I think it's almost impossible to perform—personally anyway.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. White.

Please go ahead, Mr. Virani.

[English]

Mr. Arif Virani: Along similar lines, I think the practicality of this motion number three is seriously in question in terms of there being no actual limitation, for example, on the number of questions. You could have 100 questions being provided, only five of which would be prioritized.

I think this was raised earlier in a different context, but on the notion of also having written questions submitted and then answered, if that person didn't appear, you lose the ability to cross-examine or challenge the people on their evidence, and you also can't use written interrogatories as a form of compelling information from a witness who otherwise has the discretion whether or not to appear. I think that's important.

The notion of potentially following up after the fact, as Senator White has mentioned, after a witness has appeared, if there were still outstanding issues, that I think would probably circumscribe a number of questions and force us to be a bit more targeted in the questions that we pose and also allow us to pose fewer questions thereby facilitating the work of the committee.

For those reasons, I would be opposing this.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Virani.

Mr. Motz, you have the floor.

[English]

Mr. Glen Motz: Chair, I appreciate the interventions from my colleagues.

Notwithstanding those comments, what I find to be untenable moving forward is the fact that we have so many witnesses and we want to have some sort of a timely response to the conclusion of this particular work of this committee. If we are going to bring witnesses back that we weren't satisfied with the first time around and we can't even get through our first round of witnesses in a proper way, I can't imagine how long we're going to be here. I mean, this session goes until 2025. We just might still be here.

Well, not you, Gwen. I'm sorry.

Would you be amicable to an amendment to this? I'm prepared to present a friendly amendment to our own motion: That the motion be amended by replacing the words "listed on the analyst's work plan dated May 11, 2022" with "who appears as a witness", and replacing the words "the adoption of this motion" with "the date of their appearance".

That would then read: "That the motion be amended to say that "provided that"....

The Joint Chair (Mr. Matthew Green): We can draft something.

Mr. Glen Motz: That would make better sense, I think. Not better sense, but it would probably take care of the concerns that have

been addressed. As well, then, it would leave those of us who have lingering questions to ask them.

• (1855)

Ms. Rachel Bendayan: [*Technical difficulty—Editor*] limit the number of questions?

Mr. Glen Motz: Thirty each...?

Voices: Oh, oh!

Mr. Glen Motz: I'm just teasing.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): You have the floor, Mr. Green.

[English]

The Joint Chair (Mr. Matthew Green): You may recall in the testimony of the Deputy Prime Minister and Minister of Finance that I was repeatedly trying to get basic information regarding whether or not there were notes available that prepared her for this committee. Currently, I'll share with you that the only way we could get that was through an ATIP.

So we did file for the ATIP. We just found out that they're going to request another 90 days to be able to provide this basic information.

Again, I just want to underscore the need for this committee to have the ability to demand documents in a timely way. That's why I think something like this, which would give them a timeline on it, would hopefully help avoid future instances where people are just, in my opinion, obstructing this committee from being able to do its basic work.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Before we hear from Senator Carignan and Mr. Virani, I want to make sure everything is clear.

Mr. Motz, you proposed an amendment, is that correct? It was a favourable amendment, but we are discussing it.

[English]

Mr. Glen Motz: It's a proposed amendment.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Are we agreed to adopt the amendment?

Ms. Burke just pointed out that Mr. Motz cannot propose an amendment to his own motion. But if someone else proposes the same amendment, are we agreed on the principle?

[English]

Mr. Arif Virani: I would like to hear it again, but I'll raise two things right off the top. One is that there's still no limit on the number of questions, but even more importantly, two more points arise. A situation could arise where you are then posing written interrogatories towards a Mr. John Doe or Ms. Jane Doe who we think is going to show up. Life intervenes and they never show up, so we never have a chance to cross-examine them on that information.

In that situation, I would say that—

Hon. Vernon White: No, no. This is after the evidence.

Mr. Arif Virani: It's only after the evidence? Okay. But I also have some concern—

A voice: [*Inaudible—Editor*] don't get to cross-examine all the time.

Mr. Arif Virani: Well, then, we still don't get to cross-examine on their responses, because it's after the evidence has been tendered.

The last piece is on the point in (c)(ii):

provided that a failure to respond to questions shall be approached by the Committee as if a witness declined to respond to an oral question asked at a Committee meeting

That to me seems to be going down the slope of actually sanctioning the individual who has failed to respond. Sanctioning people for failing to respond in committee is something that can only be done in our chamber, in the House of Commons itself. If that's leading us towards contempt proceedings, then I have significant issues with the way this is phrased.

I'll remind my friends opposite that among people on their witness list are Conservative politicians such as the Premier of Ontario.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Senator Carignan, you have the floor. Next is Ms. Bendayan.

Hon. Claude Carignan (Senator, Quebec (Mille Isles), C): I will propose the amendment suggested by Mr. Motz, which would require members to submit their questions within three weeks after the witnesses appeared, rather than within three weeks after the adoption of the motion.

I would like to suggest a further amendment, namely, to replace “three weeks” with “seven days”. So that would mean seven days rather than three weeks after the witnesses appeared.

The Joint Chair (Mr. Rhéal Fortin): The amended motion would therefore propose that committee members may submit their questions to the joint clerks up to seven days after the witness appeared. Is that everyone's understanding?

Agreed.

Was there anything else, Senator Carignan?

Hon. Claude Carignan: Yes.

The Joint Chair (Mr. Rhéal Fortin): We will now hear from Ms. Bendayan, followed by Ms. Cordy and Senator White.

Please go ahead, Ms. Bendayan.

Ms. Rachel Bendayan: Thank you, Mr. Chair.

To begin, I would like to speak to Senator Carignan's proposed amendment.

Out of consideration for our witnesses, we have to remember that not all witnesses will be able to answer 30 or 50 questions in seven days. They have other things to do. Furthermore, we do not know

how many questions there will be, since we have not discussed that yet.

• (1900)

The Joint Chair (Mr. Rhéal Fortin): Pardon me, I would like to say something. The amendment proposes that the members provide their questions to the Joint Clerks within seven days after the witnesses appear, not that the witnesses must answer them within that timeframe.

Ms. Rachel Bendayan: Thank you for pointing that out, Mr. Chair.

I will limit my remarks to the following. As you know, our meetings are now just two hours long. If we have two groups of witnesses for one hour each, it is very likely that we will not be able to discuss all the possible topics with them. If we send written questions that are unrelated to the testimony they gave before the Committee, that is not fair. We would be opening Pandora's boxes in writing and would not be able, as several people pointed out, to see the witnesses, look them in the eyes and listen to what they have to say.

This is something that could happen, which in terms of fairness and procedure I find very difficult to accept.

The Joint Chair (Mr. Rhéal Fortin): Senator Cordy, you have the floor.

[*English*]

Hon. Jane Cordy (Senator (Nova Scotia) PSG): Thank you.

I've heard the amendment, but I'd like to know exactly what I'm voting on, because I'm hearing the amendment, but what else is included? Is it included up to five questions per individual and we're giving them one week? That could be, if all 11 people around the table ask five questions, 55 questions and one week to answer them. That's a bit unreasonable.

Could somebody read to me—I'm brand new, so maybe I'm slow catching on—the proposed motion with the amendment and without whatever somebody else said?

Mr. Glen Motz: We only let the senators have one question.

Hon. Vernon White: But it's always the best one.

Voices: Oh, oh!

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Senator White, you have the floor.

[*English*]

Hon. Vernon White: Yes, I don't even know anymore.

My perspective is, I thought we were saying we would have seven days to provide them with questions. I don't know that we set a time limit for when they would provide them back.

I'm still a little bit concerned about having a limit on the number of questions, only because I know that over here in the House, you guys have a lot more time to write than we do over in the Senate. I would like to have a little bit of a limitation, maybe even by group. We have how many groups represented here, five or six? That would make it a bit easier so people could put their questions together. Otherwise, I can honestly see a lot more work going back and forth than maybe we have time for.

Hon. Jane Cordy: Would we be hiring more staff? This would definitely be untenable for....

Hon. Vernon White: There's a former Liberal looking for more staff.

Voices: Oh, oh!

Hon. Jane Cordy: It was a suggestion to be efficient.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Mr. Virani, you have the floor.

Mr. Arif Virani: I would like to point out two things, and add something else.

[English]

I still don't see the ability to cross-examine on the answers to the interrogatories. I still don't see, pursuant to what Senator White just mentioned, a limit on the number of questions.

I'll inject a third element here, and we know this works on both sides. Sometimes the questions you pose are, in part, triggered by what you've heard from the other people around the table. If, perhaps, Mr. Brock asked certain questions that elicited certain types of testimony and I wanted to perhaps respond to it, I would phrase my questions accordingly to elicit some sort of response. That's the natural to and fro of a committee process. That possibility is completely eliminated when we don't see the types of written interrogatories that are put to the witnesses after the fact, and I think that diminishes the quality of the kind of evidence we will hear.

[Translation]

Thank you.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Virani.

Mr. Green, you have the floor.

[English]

The Joint Chair (Mr. Matthew Green): In response to the honourable member with the fantastic bow tie, I would say that, as a committee, we always have the ability, quite rightly within our rights as a committee, to call witnesses back. I'm unwilling to accept the argument that just because the questions are written and go out that there isn't an opportunity for cross-examination. If we feel that somebody isn't being truthful or perhaps has provided contradictory testimony, we would always retain the right, as a committee, to call them back to this function.

From my perspective, when you talk about the to and fro, I can share with you that many of the meetings we've had to date have left me feeling pretty incomplete in terms of the opportunity to engage with people. I think it would actually be an opportunity for us

to be less adversarial to allow somebody an opportunity to clarify something that was said or provide information that they didn't have at hand, rather than take the position that we feel maybe they weren't being truthful or maybe they were providing an obstruction, in our own opinions, and then recapitulate a fight to drag them back before this committee.

I actually look at it from an opposite perspective. This is an opportunity to prevent that by giving people the opportunity to reply in writing. I think if we could zero in on the number, I would agree with equity. If there was the opportunity to do that—by block or what have you, or three questions, or something reasonable—I would be happy to support that.

On the last point, we do have to get to a point where facts are established at this committee. I'll continue to repeat that and identify any instances where we don't feel like we're getting that work done. I think this is a way to do that.

I hope that we can find a common ground on this and move forward.

• (1905)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

Mr. Motz, you have the floor.

[English]

Mr. Glen Motz: Chair, in response to some comments that had been made earlier in regard to the number of questions, historically, I believe the ethics committee had a similar type of action on witnesses for the WE scandal. They found that a multitude of questions from all different parties were similar. The responses came back and—I'm just making this number up—they may have had five, six or eight questions that were almost identical from five, six or eight different people. They responded as one to that question.

We're not going to get an overabundance of questions. I agree that if we agree to limit the number of questions we have—or not limit, but reduce them a bit—I think we can certainly live with that.

The Joint Chair (Mr. Matthew Green): Mr. Chair, I'd like to make a suggestion.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): First, I would like to check if Senator Carignan and Senator Boniface are the only ones who wish to speak. They are the only ones on my list. Is there anyone else?

Mr. Green, did you want to say something now?

[English]

The Joint Chair (Mr. Matthew Green): No, I'll relinquish and allow [Inaudible—Editor].

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Okay.

Please go ahead, Senator Carignan.

Hon. Claude Carignan: I would like to speak Senator Cordy's point. We have to remember that the witnesses have three weeks to answer the priority questions and six weeks to answer the others. That is a lot of time. They do not have seven days to answer the questions; rather, we have seven days to ask them. The witnesses have three or six weeks to answer them.

To Mr. Green's point, I would add that we can invite witnesses back, and they can also ask to be invited back if they feel the need to complete or clarify their answers.

I think that is fair for the witnesses and for us, as members of the Committee.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Senator Carignan.

Senator Boniface, you have the floor.

[*English*]

The Joint Chair (Hon. Gwen Boniface (Senator (Ontario) ISG): First of all, it's nice to see everybody back.

I thank Senator Carignan for the clarification. I think that helped me in terms of where my thinking was on this.

As a follow-up to Senator White, perhaps in number we look at something like each group providing two questions. They merge them together. If more questions come out of it, we can deal with it witness by witness.

I come from the perspective where I've appeared before committees. I think we have to keep in mind that not everybody comes from a place where there's an army of people behind them to draft and provide their presentation. In my experience, often the notice was to appear three days hence. Then there are all these demands on you in terms of it. We have to respect that not every witness comes to the table equally.

I think the bigger question we are dealing with here is really getting to the witnesses and then as a committee working collaboratively to really come to terms with which witnesses we need back and which witnesses we may need some clarification from.

In principle, the way Senator Carignan has done the amendment, we could limit the questions. We will still have witnesses whereby we'll have to make decisions on whether we need them back or not. But this sounds overly detailed without really having a vision of who it is we're talking about.

My final point is that it's the witnesses we need to get to and then learn from. As we go through the witness list, other issues may arise. We are coming to witnesses who are very core to the actual operation. I think they're necessary to hear from as soon as possible.

• (1910)

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Green, you have the floor. Then it will be Mr. Virani's turn.

[*English*]

The Joint Chair (Mr. Matthew Green): As a bit of a recommendation—I think we're getting somewhere—maybe folks would

be open to a five-minute recess to work on some of the logistics. That way we're not just doing our rounds. Hopefully we'd be able to come back to the committee with a tighter proposed amendment. That might get us somewhere here.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): So you are proposing that we suspend the meeting.

[*English*]

The Joint Chair (Mr. Matthew Green): I suggest a five-minute recess just for us to discuss among parties on the logistics of it.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Is everyone agreed?

Voices: Agreed.

The Joint Chair (Mr. Rhéal Fortin): So we will break for five...

[*English*]

Hon. Jane Cordy: Mr. Chair, can we have actually a reading of the whole motion as it's going to be with an amendment so that it's—

Mr. Glen Motz: That's what we're going to work on now.

Hon. Jane Cordy: Yes, that's what I want.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Right now, the only amendments to the motion as drafted would require members to submit their questions within seven days after the witnesses appeared rather than before they appear. I do not think there are any other changes to the original motion. I will let you think about it.

The meeting is suspended.

• (1910)

(Pause)

• (1915)

The Joint Chair (Mr. Rhéal Fortin): We will now resume our meeting, colleagues.

I bet Ms. Burke that the meeting would end at 7:30 pm. Otherwise, I will owe her a coffee. So please help me out.

Mr. Motz, you have an amended motion to propose; please read it out.

[*English*]

Mr. Glen Motz: I am reading it based on the conversations we had with colleagues. Thank you for your input.

The motion will now read—because Vernon doesn't trust that I might not slip something in—as follows: “That the Committee send to each individual organization who appears as a witness written questions submitted by the members of the Committee for response, provided that (a) members shall provide their questions to the Joint Clerks within seven days of the date of their appearance, (b) members may designate up to two questions per representative group, (c) individuals or organizations shall be directed to respond within 21 days of the joint clerks sending them, (d) the joint clerks shall arrange for translation of the responses received, and circulate them to committee members and publish them on the website upon completion of the translation.”

• (1920)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Do we have the revised motion in writing?

[English]

Mr. Glen Motz: Mine is written, but I can—

[Translation]

The Joint Chair (Mr. Rhéal Fortin): It is for the minutes.

[English]

Mr. Glen Motz: I can say it again with clarity now that I have—

[Translation]

The Joint Chair (Mr. Rhéal Fortin): That will not be necessary. Ms. Burke says it is okay.

I believe everyone agrees to the amended motion.

(Motion as amended agreed to [See Minutes of Proceedings])

The Joint Chair (Mr. Rhéal Fortin): Here is Motion 4:

That the Committee, noting the frustrations of its members with certain witnesses evading questions or declining to answer questions on grounds not conceded by this Committee or the law of parliamentary privilege, invite the Law Clerk and Parliamentary Counsel of the Senate, the Deputy Law Clerk and Parliamentary Counsel of the House of Commons, and representatives of both Houses' procedural services to brief the Committee as soon as possible concerning the rights of committees to procure responses to oral questioning and the procedures for compelling those responses.

I suspect the translation into French is not up to par. Perhaps the English version is better. The wording in French, “*contraindre ces réponses*”, for the English “compelling those answers” is incorrect.

Mr. Motz, would you like to present your motion?

[English]

Mr. Glen Motz: I would classify this as the Matt Green motion, and that's a compliment. It's just something for clarity.

We talked with one of the clerks earlier. I think it's important that as a committee we know where we stand, what the process should be if we have some need to compel witnesses to actually answer questions, and how we go about doing that. What does parliamentary privilege actually mean when it comes to this committee and what that all looks like?

Again, I think it's quite self-explanatory. Then we will have a better understanding of where we have to go should witnesses who come forward refuse to answer questions.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Does anyone else wish to speak to Motion 4?

Mr. Virani, you have the floor.

[English]

Mr. Arif Virani: I thought, for the purposes of expediting the precious time we have to meet in person, perhaps this could be addressed in writing by the law clerk of each chamber. They could provide this advice to us in writing, as opposed to taking up a precious two-hour session, talking us through what the rules are from their perspective.

Mr. Glen Motz: I'd agree to that amendment.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Could you repeat the amendment you are proposing, Mr. Virani?

[English]

Mr. Arif Virani: I'm trying to think how I would amend it.

[Translation]

One moment, please.

• (1925)

[English]

Mr. Glen Motz: Arif, I can suggest that where it says that representatives “brief the committee”, it changes to “provide a brief to the committee”. On the second-last line, Rhéal, it would say, “representatives of both Houses' procedural services to provide a written brief to the committee as soon as possible concerning the rights of committees”, etc.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Does everyone agree to the amended motion?

(Motion as amended agreed to [See Minutes of Proceedings])

The Joint Chair (Mr. Rhéal Fortin): Moving on to Motion 5, it reads as follows:

That the Committee publish on its website the documents which were produced in response to its order of May 31, 2022, and circulated to Committee members in July 2022.

Senator Boniface, would you like to say something?

[English]

The Joint Chair (Hon. Gwen Boniface): Perhaps for clarity we indicate it was circulated to members in July 2022. I believe we had further information that came, so I suggest you don't want to limit yourself. You make it “according to the order of May 31, 2022”, period.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): In that case, I suggest we drop the last part. The motion would therefore end with “[...] in response to its order of May 31, 2022.”

Is that what you were thinking, Senator Boniface?

[English]

The Joint Chair (Hon. Gwen Boniface): Yes. I think we're limiting ourselves.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): You are right.

Does everyone agree to the amended motion?

[English]

Mr. Glen Motz: I would agree with that.

Some hon. members: Agreed.

(Motion as amended agreed to [See Minutes of Proceedings])

[Translation]

The Joint Chair (Mr. Rhéal Fortin): And now for Motion 6:

That the Committee finds the responses of the Royal Canadian Mounted Police and the Department of Justice to its May 31, 2022, order to be unacceptable and is of the opinion that a potential contempt has occurred as a result and, therefore, (a) directs the Joint Clerks and analysts to prepare a succinct interim report setting out the material facts of the situation; and (b) instructs the Joint Chairs to present this report to both Houses as soon as it has been prepared.

Mr. Virani, you have the floor.

Mr. Arif Virani: Not everyone is in agreement on that.

[English]

I think that this is, first of all, extremely premature. We haven't finished with the RCMP witnesses yet, so it's presuming a great deal. Also, it's finding a fairly significant conclusion, which I would oppose, namely, that the finding of potential contempt has occurred. So I would not be minded to support this motion.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Senator White, you have the floor.

[English]

Hon. Vernon White: I can't agree with this either.

My perspective would be, if I felt the questions of the RCMP weren't appropriate, I'd call them back and try this one more time. There were many witnesses whose responses I haven't been ecstatic about. We might be here all night holding people in contempt, so I'd rather call witnesses back than get into this type of dialogue at this point.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Senator White.

Mr. Green, you have the floor.

[English]

The Joint Chair (Mr. Matthew Green): Mr. Chair, having done a bit of preliminary research and having made some inquiries on this, it might be useful and for the benefit of this committee if, through you to the clerk, there was a response on what the process might look like from the committee's perspective. That way, we'll be adequately able to deal with a process, if we consider it to be contempt, that follows our procedural bylaws.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Is...

[English]

The Joint Chair (Mr. Matthew Green): The question is through you to the clerk. Could the clerk perhaps respond on what the process would be?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Could you please repeat that, Mr. Green?

[English]

The Joint Chair (Mr. Matthew Green): Sorry, Mr. Chair, the question that I put to you is through you to the clerk, to ask the clerk to just provide the committee with a brief overview of what the procedural process would be to initiate a finding of obstruction or contempt.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Okay. That seems to be another motion, though.

[English]

The Joint Chair (Mr. Matthew Green): It's not a motion that we're talking about.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Pardon me. So you are looking for clarification now.

[English]

The Joint Chair (Mr. Matthew Green): Because as sympathetic as I am to the motion, I'm also charitable to the very real critique that there's a presupposition in this. I just want to put that on the table because, for me, process is more important than being right. I would like to make sure that we're following the process to come to a conclusion that is procedurally correct.

● (1930)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

Ms. Burke, can you answer the question?

The Joint Clerk of the Committee (Ms. Miriam Burke): Yes, but you can also answer it.

The Joint Chair (Mr. Rhéal Fortin): I would rather let you answer.

The Joint Clerk (Ms. Miriam Burke): Thank you, Mr. Chair.

[English]

In the finding of contempt, particularly in the case of refusal to answer a question, the committee would have to adopt a motion compelling the witness to answer the question, first of all, so it would have to be before the committee.

Following that, if a motion to compel the witness passed, and the witness still refused to answer at that point, a report would be drafted. The committee would adopt a report to that effect stating the fact and the belief that a contempt has occurred, and then it would be presented in both Houses for action.

The Joint Chair (Mr. Matthew Green): If I do recall, I still have the floor.

Thank you for that.

There are other instances as well which I, in my opinion, was very frustrated by. I reference testimony from a senior bureaucrat within the Ministry of Finance who also refused to provide basic information in a way that drew a point of order and a discussion, and that was set aside. That's what led me to the inquiry on what this process is.

I do hope that for those who are watching tonight, they recognize the seriousness of this committee, that they understand the parliamentary privileges that we have bestowed upon us by our House and the Senate; and that they realize when they come to this committee, they ought not embark in anything that is lying through omission, or obstruction, or refusal to co-operate with this committee.

With that being said, Mr. Chair, through you, I would perhaps ask the mover of this motion to consider withdrawing the motion given that it's not procedurally correct, and for us to, in our own work, perhaps come back to this committee if they believe there were instances that would trigger the process as laid out to us by the clerks so that we can follow the due course within our procedural rules or Standing Orders.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

Mr. Motz, you have the floor.

[*English*]

Mr. Glen Motz: Thank you, Chair, and thank you for everyone's interventions.

First of all, this motion is about document production and not about their being here as a witness, so that's what this motion is referring to, because we're talking about responses to our request of May 31. That's number one.

I want to remind committee members that we had the Department of Justice officials here who basically just thumbed their noses at us. They didn't respond to anything.

You're right, Mr. Green. We do have the need to find out. Witnesses need to be able to answer the questions that are posed to them, and not just refuse to answer them. We need a process of how we can have a contempt of—

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Have you finished, Mr. Motz?

[*English*]

Mr. Glen Motz: I'm just suggesting that while I understand there is a process in the finding of contempt and we need to do that, we

may want to consider the whole idea of developing some protocol within this committee to do exactly as Mr. Green suggested and the clerk suggested. That is that we look at some sort of a motion when we have a witness before us, and we're talking about a witness.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Motz.

Before we move on to Mr. Brock, I must tell the committee members that, at the start of the meeting, Ms. Burke received an envelope containing a USB key. I do not know what is on the key, but the envelope says it is documents from the RCMP.

[*English*]

“Disclosure to RCMP, PCO and CBSA”.

[*Translation*]

This key might provide some answers to our questions, but we cannot of course review the material this evening.

Ms. Burke, I expect you will be sending us that material next week.

Mr. Motz, you wanted to say something.

[*English*]

Mr. Glen Motz: Could that be the missing recording from the Nova Scotia event?

• (1935)

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Ha, ha!

It is nonetheless important information concerning the RCMP's testimony.

I share the frustration expressed in this motion, and in previous motions. I think we need to find a way to deliver the results of our work and fulfill the mandate we received from the House of Commons and the Senate. So there are measures that must be taken.

The spirit of Motion 6 is interesting. As to the RCMP, however, we received the USB key at the start of the meeting, as I said, and do not know what is on it. On the other hand, the process does not appear to be consistent with the rules of the House and the Senate.

Mr. Motz, as the mover of this motion, do you think it would be advisable to suspend its consideration for the time being, until we find out what is on the key, for one thing, and secondly, to change the wording of the motion in order to fall into line with the applicable contempt rules?

[*English*]

Mr. Glen Motz: Thank you, Mr. Chair. That's good advice. I would ask that we adjourn this particular motion at this time.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Motz.

It is a bit late for my coffee, but I...

Ms. Rachel Bendayan: Mr. Chair, I think we need to vote on the suggestion to suspend consideration of this motion, because we are not in agreement.

The Joint Chair (Mr. Rhéal Fortin): Since you are not in agreement, we will vote on the suggestion to suspend consideration of Motion 6.

Please proceed, Mr. Joint Clerk.

[English]

The Joint Clerk of the Committee (Mr. Mark Palmer): We're voting on the motion to adjourn the debate on motion 6.

(Motion agreed to: yeas 8; nays 3)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): We will now move on to consideration of Motion 7, which reads as follows:

That the Committee, noting the use of redactions in the documents provided by the Canadian Security Intelligence Service, the Canada Border Services Agency and the Department of Transport in response to the Committee's May 31, 2022, order, though the order was silent on authorized redactions, directs the Joint Clerks to request the deputy heads of those institutions to provide this Committee, within two weeks and in both official languages, with a written explanation of the grounds for each redaction made to the documents and, where possible, a summary of the information redacted.

Before we continue, just a comment on the translation. The French version of the motion that we will be working on uses the word “*rédactions*”, although the correct French term is “*caviardage*”. “Redactions” is the correct term in English, but “*rédactions*” has another meaning in French.

Does anyone wish to comment on Motion 7?

You have the floor, Ms. Bendayan.

Ms. Rachel Bendayan: Thank you, Mr. Chair.

With regard to redaction, we discussed that at length at a previous meeting. My understanding is that we agreed that, if we have questions or if any documents raise concerns, we can then ask questions about a specific document.

Motion 7 seems to be raising questions about all the documents. We are talking about hundreds of documents, so I would invite Mr. Brock and Mr. Motz to identify the documents in question.

• (1940)

The Joint Chair (Mr. Rhéal Fortin): What you are asking for, Ms. Bendayan, is amendment to the motion. Rather than being general in scope, you are saying that the motion should identify the redacted passages for which Mr. Motz and Mr. Brock would like clarification. Is that correct?

Ms. Rachel Bendayan: It is not for me to propose the amendment, but I feel that we cannot support the motion as it is worded.

The Joint Chair (Mr. Rhéal Fortin): Are you proposing an amendment or not?

Ms. Rachel Bendayan: No.

The Joint Chair (Mr. Rhéal Fortin): Okay.

Ms. Rachel Bendayan: If either Mr. Brock or Mr. Motz would like to clarify the motion, they are free to do so.

The Joint Chair (Mr. Rhéal Fortin): You say “clarify”, but I think the motion should be amended because it clearly indicates “each redaction”—in other words, each redacted passage. So my understanding is that each redacted passage should be explained. That is what is written.

But will an amendment be made to this motion? I don't know.

Mr. Green, go ahead.

[English]

The Joint Chair (Mr. Matthew Green): Mr. Chair, I just want to say you're doing a great job up there. I appreciate you.

I'm going to keep going back to this notion of a duty of candour. I know that the courts have established that they have a duty of candour to the courts. I would argue that, as the grand inquisitor of the nation, they have a duty of candour to us. I think that when we were talking about demands for documents, there was a concern. In fact, if I recall the debate correctly, although it was quite some time ago, it was about who would be redacting them and under what auspices, like under what legality they were redacting this information.

I do, however, also appreciate the lack of specificity, given the volume of documents. Maybe it's within the spirit of the movers to allow this motion to be adjourned on debate, and to then return with specificity on which ones we would like to see a response on. I'm not moving this. I'm just speaking out loud.

I note the challenge that with heavily redacted documents, you don't know what you don't know. That is going to be a challenge. I share the frustration around what we received from CSIS and CBSA in this regard.

Through you, could I ask the mover of the motion that question? Would you allow me to do that?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): I won't stop you from asking your question, but I reiterate that the motion is clear. It concerns all the redacted passages. If we want to clarify some of those passages, we need to amend the motion.

From memory, we discussed this before. Correct me if I'm wrong, but we raised the possibility that these redacted documents be reviewed by the law clerk, for example, someone neutral who would review the full document and clarify to the committee whether the redaction that was done was legitimate or not.

I will stop here and give the floor to Senator Carignan.

Hon. Claude Carignan: I think it is essential that any redaction be justified. If a decision has been made to strike out or hide information, it is because there is a reason behind it. Is it in the name of solicitor-client privilege or cabinet confidence?

Every passage where a word has been crossed out or hidden represents a decision for which we need to know the reason. When we are called upon to challenge that decision, we need to know the rules that apply. The rules for solicitor-client privilege are not the same as those for cabinet confidence, a privilege or a security matter. In order for us to deal with this information, it will be important to know the source of the denial.

In my opinion, this is a key step. The rule is publication, the exception is redaction, and the latter must be justified.

• (1945)

The Joint Chair (Mr. Rhéal Fortin): Thank you, Senator Carignan.

Mr. Virani, go ahead.

[English]

Mr. Arif Virani: I have a just few points, Mr. Fortin. Thank you.

First, I feel that the text is a little misleading. It says, “though the order was silent on authorized redactions”. The text of the order may not reference redactions, but I have extensive memory about the discussions that went into our preparation for that motion. We talked quite openly about the possibility of redactions occurring. I felt it was understood by all of the members of this committee that there would very likely be redactions based on a number of types of privilege that can be asserted. That's the first point.

The second point is that I feel that burrowing into some of these redactions has the potential to derail the work of this committee to a great extent, especially since we're trying to work on a timely basis to address what we need to do to fulfill our statutory mandate.

Based on that, my last point is that I would be in favour of voting down this motion as it's currently worded.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Virani.

Mr. Brock, the floor is yours.

[English]

Mr. Larry Brock: Mr. Chair, I fail to really appreciate the concerns of my Liberal colleagues. Quite frankly, I do recall that conversation we had about potential redactions and all the grounds by which those redactions could be maintained and established.

At no point in time.... Quite frankly, we didn't think it would be necessary to specify in the form of that particular motion and the order that was drafted to compel those officials to do the obvious and give us some justification for that redaction. That happens all the time. Why it's not done here is very disturbing.

When we had the committee studying the WE scandal and all the redactions that flowed and the documentation that was produced, there was always an explanation on every page as to what the redaction pertained to.

I listened very carefully to Senator Carignan's commentary and I agree with him wholeheartedly. We also have to accept that there will be redactions when it comes to personal background information such as phone numbers, addresses and things of that nature.

To put an emphasis on my concerns about my Liberal colleagues taking the position that they are taking, if this were an ATIP scenario, every redaction would have a legal ground cited. Parliament has far more powers than the ATIP process, yet the government is treating this committee on an inferior basis to a regular citizen under the ATIP process, which I find very disturbing.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Brock.

I put my name on the list. So I will give myself the floor, if the committee will allow it. I know that Senator Cordy also wants to speak to this.

I agree with Senator Carignan. What bothers me here is that we will never be able to know whether the redaction is justified or not if no one talks to us about it. In other words, agencies could provide us with completely redacted documents, and we won't know whether the redaction is legitimate or not.

So there needs to be a process for validating redaction. That process may consist in submitting the original and redacted documents to the law clerk or someone else that the committee trusts for that person to review the proposed redaction and give us their opinion. This is one possibility.

On the other hand, we are all bound by certain confidentiality rules as part of our duties as senators or members of Parliament. In addition, prior to serving on this committee, each of us signed a confidentiality undertaking in relation to some of the information that may be provided to us. To date, we have never invoked this confidentiality undertaking to obtain information other than what we would normally obtain. Is there not an opportunity here to do so?

As an example, if the Canada Border Services Agency decided that some of the documents needed to be redacted, couldn't we subpoena their representatives in camera to explain to us why certain information needed to be redacted? We could then decide whether or not to accept that redaction, and then intervene in the House or elsewhere as needed.

One thing is certain: we cannot receive redacted documents without justification. We are not talking about two or three words that are redacted, but entire pages. We cannot receive that and say nothing, otherwise our mandate is meaningless. We have to be given the full information or be told why the full information cannot be made public.

That's my opinion.

That said, I give the floor to Senator Cordy.

• (1950)

[English]

Hon. Jane Cordy: Thank you very much.

I totally understand that redactions are very frustrating, but I'd like to just have a vote now or adjourn this for another time, because we're not going anywhere with it right now.

Hon. Vernon White: It's House rules. You can adjourn debate and go to a vote if you wish.

Hon. Jane Cordy: You can adjourn and go to a vote? Okay. I'd like to adjourn and go to a vote on this motion.

Ms. Rachel Bendayan: There's no adjourning and going to a vote. It's one or the other.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): We cannot do both. Do you want to adjourn the debate or vote?

[English]

Hon. Jane Cordy: Adjourn debate, I meant.

Ms. Rachel Bendayan: We can.... We're able to vote.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Senator Cordy, you are proposing that we adjourn the debate on the motion, correct?

[English]

Hon. Jane Cordy: Yes, I am.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Do we have unanimous consent to adjourn the debate on the motion?

Ms. Rachel Bendayan: No.

The Joint Chair (Mr. Rhéal Fortin): So we will proceed to a vote, Mr. Palmer, on the motion to adjourn the debate on motion 7.

[English]

The Joint Clerk (Mr. Mark Palmer): Yes. The vote will be on the motion to adjourn the debate on motion 7.

(Motion agreed to: yeas 8; nays 3)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): So the debate on motion 7 is adjourned.

We are moving on to motion 8 from Mr. Motz, which reads as follows:

That the Committee, noting the undertaking of the Privy Council Office to provide to this Committee certain documents which will be provided to the Public Order Emergency Commission which are also responsive to the Committee's May 31, 2022, order, despite not doing so directly in response to the Committee's order, while also observing that relevant Cabinet minutes, among other documents, were disclosed by the government in Federal Court proceedings and have been subject to media reporting but which have not been provided to this Committee, invites the Clerk of the Privy Council to appear before the Committee to discuss these matters, among other things.

Would anyone like to comment on this motion?

Mr. Green, go ahead.

[English]

The Joint Chair (Mr. Matthew Green): Yes. I'm wondering if there's an opportunity within this motion to, first of all, demand that all the documents be presented to this committee. I think that would

be helpful and appropriate, and then, if there is a will, I would like to bring the Privy Council back to this committee to answer for why they didn't provide it in the first place. To me, this motion actually falls in the same kind of procedural grey area as the other motion relating to obstruction or contempt. If we believe that this is a situation that warrants that, then I would suggest that we pursue it in that way.

I am frustrated that this stuff came, because we did learn more over the last two months than we did in the first six months of this committee, and I think it was completely unnecessary in terms of the delay in getting to this information.

Mr. Chair, in all the court proceedings, quite frankly, I'd like to see that documents that have been made public record within those proceedings relevant to this committee be submitted to this committee.

If I could move an amendment, I would move that we request from the government all documents pertaining to this committee that are being publicly released in the courts. I think that would at least help us catch up to where that process is.

• (1955)

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Okay.

Senator Boniface would like to comment, but I must first check whether you are proposing an amendment, Mr. Green.

[English]

The Joint Chair (Mr. Matthew Green): That was the amendment, to add to, not to replace.

I would allow the movers to argue as to why they would believe it would be important to bring the PCO back before us. In my opinion, procedurally it seems to be alluding to the same type of obstruction that we dealt with in the previous motion. I would, however, like to have a process in place such that when documents are submitted by the government in court proceedings and become public—

[Translation]

The Joint Chair (Mr. Rhéal Fortin): You explained it earlier, Mr. Green.

I would just like to clarify the amendment you are proposing. Where is its wording?

Ms. Rachel Bendayan: Can I ask a clarification question?

The Joint Chair (Mr. Rhéal Fortin): Yes, Ms. Bendayan.

[English]

Ms. Rachel Bendayan: Mr. Green, are you suggesting that all publicly available documents be available to this committee from the court proceedings?

The Joint Chair (Mr. Matthew Green): That's correct.

Ms. Rachel Bendayan: Could that be proposed in a separate motion?

The Joint Chair (Mr. Matthew Green): I'm happy to do that at a later time.

I'll take it back, Mr. Chair, and I'll draft it. I'll make sure it's in both official languages as well.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): You are making my life easier, Mr. Green. Thank you.

Thank you, Ms. Bendayan.

What is more, it appears that we have unanimous consent to withdraw Mr. Green's amendment proposal.

Ms. Boniface, go ahead.

[*English*]

The Joint Chair (Hon. Gwen Boniface): Mr. Chair, maybe it would be helpful if Mr. Motz spoke first, because I find this confusing, and it was more convoluted once Mr. Green spoke, because I think we may have covered it in another motion. I'm finding it difficult to understand what we're asking for with this one, particularly when I see at the end, "among other things". That could be a range.

Perhaps it would be helpful if Mr. Motz spoke.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Ms. Boniface.

Mr. Motz, go ahead.

[*English*]

Mr. Glen Motz: I'll defer some of this to my colleague, Mr. Brock, but I want to explain.

I agree with Mr. Green that having the Privy Council Office, the Clerk there, provide all documents to this committee is critical, and that's obviously the intent of this.

Also, there needs to be some explanation on the Clerk's part to help us understand why we don't get documents when we ask for documents. It makes no sense to me that the courts get them. I'm sure that will come up in Mr. Green's motion, but we can also add it here. It's the idea that we asked for these documents as part of the May 31 order, and yet we were not provided documents. However, the Privy Council Office sent certain documents to the commission, and we don't have those. They sent documents to the Federal Court on other matters before those courts with regard to the Emergencies Act, and yet we do not have those and we are blocked from having them. I don't understand why. I think the Clerk of the Privy Council needs to come to explain why.

Mr. Green also commented earlier that there needs to be some accounting somewhere. Maybe if someone of the stature of the Clerk of the Privy Council will recognize that this committee has a privilege to get access to the information that is available to other situations or other venues, then we would be able to have them based on the order we got.

• (2000)

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Motz.

Mr. Brock, we are listening to you.

[*English*]

Mr. Larry Brock: I'm going to start off by seeking some direction from you, Mr. Chair, and from the clerk, if necessary.

Do I have the ability to seek a friendly amendment to this motion, notwithstanding that my name is attached to the motion itself? Perhaps my senator friend could help me. That's fine.

To Mr. Green's point and his kind suggestion about drafting a separate motion, which, in my view, deals with the substantive matter that we're trying to seek here, which is access to the documentation, of course, it's very clear given the media reports that the Clerk of the Privy Council has clearly relevant information for the purposes of this committee. Might I suggest as a friendly amendment that could be put forth by my friend Senator Carignan—oh, thank you. It's been drafted for me, "That the committee invite"—

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): I will give the floor to Senator Carignan if he is the one proposing it.

[*English*]

Mr. Larry Brock: Perhaps I could read it, or else I could pass it on just as easily.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): I'm sorry, Mr. Brock.

Ms. Rachel Bendayan: No, technically, he cannot do it.

[*English*]

Mr. Larry Brock: The friendly amendment is to read, "That the committee invite the Clerk of the Privy Council to appear before the committee to discuss the production of documents, including claims of cabinet confidence for the committee and other proceedings related to the public order emergency."

Hon. Claude Carignan: It's a very good idea. I move that.

Voices: Oh, oh!

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Does this constitute an amendment? If we are talking about an amendment to motion 8 from Mr. Motz and Mr. Brock, it must be specified where to change what word.

You read to us a new motion, Mr. Brock, and I like it, but with all due respect, I think it is another motion. It is no longer part of an amendment. Perhaps your motion could be proposed separately, I don't know. If we want to make an amendment to motion 8, I will need to know what word is being changed.

Ms. Rachel Bendayan: Mr. Chair, if I may, since we have already discussed eight motions from the Conservatives and we also have amendments—

The Joint Chair (Mr. Rhéal Fortin): Wait a moment, please. We are not there yet, Ms. Bendayan.

I gave the floor to Mr. Brock, and Mr. Green and Mr. Virani were up next. I can add your name to the list. Right now, Mr. Brock has the floor.

Ms. Rachel Bendayan: This is not an amendment. It's another motion, Mr. Chair.

The Joint Chair (Mr. Rhéal Fortin): Senator Carignan, go ahead.

[*English*]

Hon. Claude Carignan: I will move that, after the word “committee”, we remove lines 1, 2, 3, 4, 5 and 6 up to “invites” and continue with “invite the Clerk of the Privy Council to appear before the committee to discuss”. We will remove the words “these matters, among other things”. We will replace them with “the producing document, including claims of cabinet confidence for this committee and other proceedings related to the public order emergency.”

[*Translation*]

Ms. Rachel Bendayan: I have a point of order, Mr. Chair.

The Joint Chair (Mr. Rhéal Fortin): Wait a moment. Senator Carignan's amendment has been proposed, and that is what we will discuss now, but I must first hear Ms. Bendayan's point of order.

• (2005)

Ms. Rachel Bendayan: You said, as chair of this committee, that the amendment was not in order. You rightly said it was a new motion. Obviously, by taking out five of the six lines of the motion, it was made into a new motion. So I would like to clarify the situation with respect to the comments and decisions you made.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Ms. Bendayan.

What I was saying earlier was that the text Mr. Brock read to us was a new proposal. What we have now is Senator Carignan's amendment, which I believe is in order. The lines he would like to strike out are basically a kind of contextualization. However, the request to have the Clerk of the Privy Council appear remains. Second, the amendment specifies the matters to be discussed. I did not note the exact wording proposed by Senator Carignan—he can repeat it—but, in my opinion, this amendment is in order.

Mr. Green, you have the floor.

[*English*]

The Joint Chair (Mr. Matthew Green): Mr. Chair, in noting the time, typically, we have a brief break to allow people to refresh themselves. I would like to request that we have a five-minute recess at this time to allow people to do that. We can then come back to this. I think we're going to be at loggerheads here for a bit. I'd like to ask for five minutes.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Would we be ready to vote on the amendment now?

Some hon. members: No.

The Joint Chair (Mr. Rhéal Fortin): So I will grant Mr. Green's request, but since it is 8:10 p.m. and we have to leave at 8:30 p.m., let's keep it to five minutes. Does everyone agree?

Some hon. members: Agreed.

The Joint Chair (Mr. Rhéal Fortin): The meeting is suspended.

• (2005)

(Pause)

• (2005)

The Joint Chair (Mr. Rhéal Fortin): We are resuming our meeting.

Mr. Motz, the floor is yours.

[*English*]

Mr. Glen Motz: Chair, in light of discussions with all parties in the room, I move to adjourn debate on this particular motion.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Does everyone agree with that?

Some hon. members: Yes.

• (2010)

The Joint Chair (Mr. Rhéal Fortin): So the debate on motion 8 is adjourned.

If memory serves, Ms. Bendayan mentioned, at the beginning of the meeting, that she would like to move a motion.

Ms. Rachel Bendayan: Yes, the clerk has received it.

The Joint Chair (Mr. Rhéal Fortin): Can it please be distributed?

Ms. Rachel Bendayan: I have copies for everyone, Madam Clerk.

In the meantime, I will briefly talk about the motion.

This is a motion that will help us ensure that our committee's work—

The Joint Chair (Mr. Rhéal Fortin): Ms. Bendayan will explain to us the content of her motion while copies are being distributed to members.

Ms. Bendayan, go ahead.

Ms. Rachel Bendayan: Thank you.

The motion proposes the names of a number of witnesses we could invite to appear at upcoming meetings.

I think that everyone now has a copy of the text of the motion.

That the committee invite Peter Sloly, Ottawa Mayor Jim Watson, and representatives from the Ottawa Police Service to appear for one hour each; that the committee invite the Parliamentary Protective Service, the Sergeant at Arms for the House of Commons, and representatives from the Corporate Security Directorate from the Senate to appear on one panel for a period of two hours; and that these meetings take place as soon as possible subject to witnesses' availabilities.

Mr. Chair, I would really like those witnesses to appear for two, three, four or five hours, but time is limited. What is proposed is in the text of the motion. We could always invite those witnesses again as needed.

Now that we have reviewed the motions proposed by our colleagues, we have an opportunity to submit questions in writing. So I am submitting my motion to you for discussion and debate.

The Joint Chair (Mr. Rhéal Fortin): Thank you, Ms. Bendayan.

Before I give the floor to the next speaker, I must give the floor to Mr. Motz and Senator White, as they wanted to comment.

That said, before I do so, I would like to ensure I understand what you are proposing. You are proposing a one-hour block for two witnesses, the Mayor of Ottawa, Mr. Watson, and a representative of the Ottawa Police Service, as well as another —

Ms. Rachel Bendayan: I am proposing a one-hour block for each witness.

The Joint Chair (Mr. Rhéal Fortin): Okay.

You are proposing one hour for each of the two witnesses. As for the other three witnesses, will they each have two hours or do you want us to divide up the two hours among the three?

Ms. Rachel Bendayan: No, those witnesses would be part of the same panel.

The Joint Chair (Mr. Rhéal Fortin): The three witnesses—the Sergeant at Arms, Senate security, and the Parliamentary Protective Service—would have two hours in total. The first two witnesses would have an hour each.

Ms. Rachel Bendayan: Yes.

The Joint Chair (Mr. Rhéal Fortin): Okay, thank you.

Mr. Motz, go ahead.

[*English*]

Mr. Glen Motz: Thank you very much, Chair, and thank you, Ms. Bendayan, for bringing this forward.

I like the witness list. I would make some suggestions.

Given the importance of former chief Sloly and Mayor Watson,... We need to name not just representatives, but the Ottawa Police Service. We name the interim chief and we name the acting deputy chief to appear for two hours each. We have to.

The rest of it—the Parliamentary Protective Service, the Sergeant-at-Arms and corporate security directorate for a panel for two hours—I can live with.

Ms. Rachel Bendayan: You are proposing two hours for Peter Sloly, two hours for Mayor Watson and two hours for both representatives.

Mr. Glen Motz: Yes, that's for the current interim chief and the acting deputy chief together.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): So we would give two hours to Mr. Sloly and two hours to Mr. Watson.

Mr. Motz, how much time would be given to the other witnesses?

[*English*]

Mr. Glen Motz: Yes, it's that the committee invite Peter Sloly, Ottawa Mayor Watson and the Ottawa Police Service's interim chief and acting deputy chief for two hours each. Then—

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): So that comes up to eight hours, or two hours per witness. Is that right?

[*English*]

Mr. Glen Motz: No, the Ottawa Police Service would be one two-hour panel for two people.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): That would be for those two witnesses.

[*English*]

Mr. Glen Motz: It would be for two people and a two-hour panel, and then the rest would be the same for another two-hour panel. I would then propose one more witness. We could put in, from the last motion, the Clerk of the Privy Council.

Voices: No.

Mr. Glen Motz: You don't want her.

A voice: The OPP.

A voice: After.

A voice: There's a disconnect.

Mr. Glen Motz: We have a disconnect, but that's a totally different day.

A voice: We can do Carrique.

Mr. Glen Motz: That's fair. We can do OPP Commissioner Carrique for two hours.

That gets us going, Rachel. It helps us get moving.

● (2015)

Ms. Rachel Bendayan: I have no problem with the idea in principle. It's just that we have a very limited number of meetings and a huge witness list, which we all contributed to. I'm mindful of using our time judiciously.

Mr. Glen Motz: I agree.

The only thing is I will guarantee that in one hour, with all of us here, we're not going to get through Mr. Sloly or Mr. Watson, and we're going to be calling them back. I want to try to be as efficient as we can be, because we may be able to deal with them in one two-hour slot and not have to bring them back again.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Green, you have the floor.

[English]

The Joint Chair (Mr. Matthew Green): It's important to recognize that not all witnesses are created equal in this situation. I think the witnesses that you have in this motion are quite appropriately foundational witnesses.

I would like to note that we are in an election cycle municipally and we may want, through the clerks, to put a priority on requesting that the mayor be here while he is the sitting mayor of Ottawa. In a month, he won't be and he may be less available, given retirement. If there's the ability to prioritize chief Sloly and the mayor on the front end, that might be helpful in terms of timing.

It's just a suggestion.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Thank you, Mr. Green.

I must apologize, Senator White. I had your name on the list, and I gave the floor to Mr. Green, but I should have given it to you.

Now you have the floor.

[English]

Hon. Vernon White: “Green” comes before “White”, Mr. Chair.

I was looking at the OPP commissioner.

I'm good. Thanks.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Mr. Virani, go ahead.

[English]

Mr. Arif Virani: Could I politely suggest 90 minutes as a compromise? I'm conscious of getting through stuff in a somewhat efficient manner.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Our meetings are two hours long.

[English]

Mr. Glen Motz: We might get through.

Ms. Rachel Bendayan: We might consider a day during a constituency week to get through some witnesses.

A voice: That's fine.

A voice: I can live with that.

Ms. Rachel Bendayan: I'm sorry. I'm doing this off the—

A voice: Sometimes that's the way to get things done.

A voice: It depends on when.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): I was having too many discussions at the same time and I have lost track. Where are we at? Ms. Bendayan and Mr. Motz, you have talked to each other. I assume you have come to an agreement.

Ms. Rachel Bendayan: Mr. Motz proposed an amendment to my motion.

The Joint Chair (Mr. Rhéal Fortin): Do you agree with that amendment?

Ms. Rachel Bendayan: Yes, we all agree.

The Joint Chair (Mr. Rhéal Fortin): Senator White and Mr. Green, are you okay with this, as well? I see that you are.

Ms. Burke, you noted the order and length of testimony. I know that it is a block.

Mr. Motz, can you repeat the name of the witness and the length of his appearance, so that we can understand?

[English]

Mr. Glen Motz: Thank you.

Thank you, Rachel.

It is: Peter Sloly, two hours; Mayor Watson, two hours; the interim chief and acting chief of the Ottawa Police Service, two hours; the OPP commissioner, two hours; and then the PPS, Sergeant-at-Arms for the House and the corporate security directorate for two hours.

Does that work? Is that what you're thinking? Perfect.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): That means that we will have 10 hours of testimony altogether: two hours for Mr. Sloly, two hours for Mr. Watson, two hours for the current interim chief of the Ottawa Police Service, two hours for the Commissioner of the Ontario Provincial Police and two hours for the witness panel. Those are five two-hour periods, totalling 10 hours. Do we agree? Yes? That's great.

Thank you, everyone. Have a good evening and see you next week.

The meeting is adjourned.

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

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

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

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

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

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

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

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

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

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

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

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :
<https://www.noscommunes.ca>