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Co-Chairs:
The Honourable Gwen Boniface Mr. Matthew Green Mr. Rhéal Fortin



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• (1905)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin (Rivière-du-Nord, BQ)): Good evening, everyone.

Since we have quorum, we can begin our work.

Welcome and thank you for being here.

If my memory serves me correctly, Mr. Clerk, at the end of the last meeting, we were passing routine motions.

Would anyone like to move a motion?

Mr. Motz, I think that you wanted to move a motion. Is that right?

[*English*]

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

Mr. Brock and I have a number of motions. I don't know what order you want to bring them in. We can talk about them in order or we can go back and forth.

I'll just give you an overview of the ones that we have in our—

[*Translation*]

Ms. Rachel Bendayan (Outremont, Lib.): I have a point of order, Mr. Chair.

I think that we must move one motion at a time.

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, of course. However, I understood that Mr. Motz was wondering which motion he should move first.

I don't have a preference. It's up to you, Mr. Motz.

[*English*]

Mr. Glen Motz: All right. Thank you.

I will go to the first motion. It was presented last week. Some of the other ones we have are amendments to the motions that our friends across the way presented.

The very first motion that we can talk about would be the one introduced last Monday on the legal counsel. I will present a revised version of that and can speak to it.

Chair, if there's some hesitance about the lawyer motion based on not knowing what we're going to do or how we're going to do it, we

also have a motion on the scope of what we should cover and what our report should look like.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I think that you should read the motion first. You can then elaborate on it.

[*English*]

Mr. Glen Motz: Okay. Whenever you're ready, Chair.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I think that everyone has a copy of the motion. I'll let you read it, Mr. Motz.

[*English*]

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

The motion is, “That, in light of the unprecedented and complex issues associated with the declaration of a public order emergency, and with a view to discharging adequately its serious responsibilities, the committee requires the assistance of legal expertise, independent of the Government of Canada, to be provided by a lawyer who is well versed in emergencies law and who is thoroughly familiar with national security and intelligence concerns, and, therefore, retains the services of a lawyer who satisfies these criteria, to be chosen by the committee, as legal counsel on such terms as agreed by the committee.”

Mr. Chair, I can speak to it after your—

• (1910)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I believe that Ms. Bendayan had a proposed amendment. Is that right?

Mr. Arif Virani (Parkdale—High Park, Lib.): Mr. Chair, I'll move something, before Ms. Bendayan.

Our position, meaning the position held by me and my colleagues Ms. Bendayan and Mr. Naqvi, on the issue concerning—

I'll continue in English.

[English]

The general proposition for the three Liberal members on whose behalf I'm speaking is that the basis of Mr. Motz's motion—and I tracked this language because it's in both the original and the second version—requires the assistance of legal expertise “independent of the Government of Canada”.

With respect to this motion, it seems like an implicit or veiled attack on the impartiality of the civil servants who serve this country. It is our view that rather than embarking upon the retainer for independent legal counsel and the process that that would undertake, and eating up the time that this committee could otherwise better spend on actually studying the issues that we've been charged to study pursuant to the House motion, and rather than undertaking the expense of such a retainer, we use the good offices of the civil servants who are employed to do exactly that, of which there are two options. There are Department of Justice counsel and there are also counsel that serve the Parliament of Canada, and there I'm referring to the law clerk to the House of Commons and the law clerk to the Senate.

It is our general proposition that this motion is not suitable, and we would be voting in favour of its defeat in its entirety.

[Translation]

Thank you.

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

Mr. Green and Mr. White would like to speak. However, I told Mr. Motz that I would let him talk about his motion first, which I didn't do. My mistake.

Mr. Motz, I'll give you the floor to speak about your motion. I'll then give the floor to Mr. Green and Mr. White.

[English]

Mr. Glen Motz: Mr. Chair, while I appreciate the comments from Mr. Virani, I think it's important to recognize that we all know that the declaration of the Emergencies Act by the Governor in Council was unprecedented in Canadian legal and national security history. The use of the Emergencies Act, the orders and the regulations established in the act and their enforcement are all subject to various legal tests and thresholds that previously have never been applied or tested in any way.

We know that the advice provided by the Department of Justice and supported by intelligence and analysis from Canada's national security and intelligence community formed the basis for the cabinet's decision to invoke the act and what measures were necessary.

However, I'm of the opinion that the government has not clearly articulated the legal basis for these decisions or how the evolving facts or threat picture supported the imposition of such extraordinary measures. In short, it's possible that the strengths, or weaknesses, of the government's legal positions have not yet been tested or assessed by legal experts, except those within the Department of Justice.

Now, understanding this particular threat and these legal thresholds, it is critical, in my opinion, to this committee's task in review-

ing the powers, the duties and functions exercised pursuant to the declaration and as legislated.... Unfortunately, the development of and reliance upon confidential legal opinions based on potentially classified information known only to Department of Justice lawyers and national security officials and agencies they advise has proven problematic in recent years, and a fact highlighted even in the Federal Court of Canada.

Therefore, I believe it's imperative that this committee benefit from outside, independent legal advice and analysis for us to be able to do a fulsome and complete review of the evidence that will be presented to us, and to advise us, because this is a major undertaking that many of us around this table may not have the experience or the expertise necessary to maybe seek certain witnesses or to ask certain questions. I think it would be important for us to have someone who meets the threshold of the skills described in the motion to be able to give us, and Canadians, the most transparent and accountable view of the invocation of this act.

• (1915)

[Translation]

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

Mr. Green, you have the floor.

[English]

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

Having read the revised motion and certainly in keeping with the spirit of having a diversity of opinions around the table, I would put to this committee that I am open to having at our disposal outside legal counsel. I would suggest that we may find common ground by not limiting it to or having it be the only legal counsel provided to this committee, notwithstanding the fact that we ought to have ample time to invite the appropriate witnesses and guests who would be able to provide expert testimony at our request.

In keeping with the spirit of having a balanced approach to the legal interpretations, I certainly don't want to take anything away from our existing legal counsel within the public service, but would be open to the pursuit of outside legal expertise, noting that the process will likely take some time and some vigorous discussion to come to a consensus about who that person might be, and could veer us off of the material course of what we're pursuing.

That would be my caution in the selection process of that. I note that in our routine motions, we no longer have subcommittees. We have basically agreed that we're going to keep everything as a committee of the whole. I wouldn't want this process to be our first major roadblock in order to reach a work plan consensus.

If it is the intention and the spirit of the mover to bring outside legal counsel in addition to existing legal counsel that we have, many names could be put forward. Everybody around the table would have the opportunity to seek adequate subject matter expertise, and then as a committee we would come to a consensus.

The last point I would make on this is that if as a committee we deem that the process became an obstruction in and of itself, we could at a potential later date decide to abandon that process for the sake of the committee.

However, at this moment I would support the mover's intention of having outside legal counsel to add to the diversity of expertise around the table.

Thank you.

[*Translation*]

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

Mr. Harder, you have the floor.

[*English*]

Hon. Peter Harder (Senator, Ontario, PSG): Thank you very much, Chair.

I believe a discussion—

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Sorry, Mr. Harder, but I forgot that I was supposed to give the floor to Mr. White.

Hon. Peter Harder: Was Mr. White supposed to speak before me?

The Joint Co-Chair (Mr. Rhéal Fortin): Yes. That was my mistake and I apologize.

Mr. White, you have the floor.

Hon. Vernon White (Senator, Ontario, CSG): That's fine, Mr. Chair.

[*English*]

Thank you very much. I want to thank my newfound friend, Mr. Green. My perspective is that I don't want us not to consider bringing in outside legal counsel. In fact, I believe we may need that.

I would like first to see the scope of where we're going. A friend of mine once told me to never ask a lawyer to work for you until you tell him what work you want him to do, because that could cost us a lot.

I would like to see us come to an agreement that outside legal counsel may be appropriate, but I don't think we should hire outside legal counsel until we actually see what the scope of the work is going to be. That will allow us to get that out of the way.

[*Translation*]

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

You now have the floor, Mr. Harder.

[*English*]

Hon. Peter Harder: I'll be brief, because it's very much in the spirit of Senator White.

I think this discussion is premature. I am open to the notion of outside counsel should we in the course of our work identify that as a need.

Let's deal with our scope, get off and running and start some work. If we find that we need a particular expertise that can be found in outside counsel, let's do that at that time. Outside counsel if necessary, but not necessarily outside counsel.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Thank you, Mr. Harder.

Mr. Carignan, you have the floor.

Hon. Claude Carignan (Senator, Québec (Mille Isles), C): Thank you, Mr. Chair.

I also think that outside counsel may be needed.

Our role and our current work are similar to the role and work of a commission of inquiry. However, in the case of commissions of inquiry, counsel always provides advice to the commissioners in the course of their work.

I'm not sure that we should wait to hire counsel. If we wait until we need counsel, there may be a waiting period while counsel reviews all the evidence and the facts. If we hire counsel now, they can start keeping track of our work. When questions come up spontaneously, it will be easier to obtain legal advice. This will help us avoid delays. If we wait until we have an issue before we ask counsel a question, we may need to wait a week or two for an answer. This could push back our work schedule or cause some delays.

I believe that counsel should be hired now.

• (1920)

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

Mr. Brock, you have the floor.

[*English*]

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Mr. Chair.

Ultimately, I think what I will be proposing is that we adjourn this debate. I think that perhaps this is premature, based on what I'm hearing from committee members.

I just want to add this commentary. For the lawyers on this committee, there is such a thing as bias, and there's the reasonable apprehension of bias. No one on the Conservative team is impugning the integrity and the professionalism of the federal civil service, but ultimately, depending on how we frame this study and the scope of the study, we may be getting into areas that directly relate to the advice that legal counsel gave to the government.

In that instance, it would be highly, highly inappropriate, because it would be an actual perception of bias to consider the independence of that type of evidence for the purposes of this committee. I think that in those circumstances it would be a wise, prudent move to consider outside counsel.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Brock, are you moving that we adjourn the study of this motion?

[English]

Mr. Larry Brock: No, the motion, not the study.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Obviously.

Voices: Oh, oh! (laughter)

[English]

Mr. Larry Brock: That would run contrary to my commentary last week.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Of course.

I want to know whether you're moving a motion to adjourn the study of Mr. Motz's motion.

Mr. Larry Brock: Yes.

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

Ms. Bendayan and Mr. Virani still want to speak, but I'm told that the motion to adjourn must be voted on first.

Do we have the unanimous consent of the committee members?

[English]

Mr. Glen Motz: It's adjourning debate on the motion.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, this concerns the adjournment of the debate on your motion, Mr. Motz.

[English]

Mr. Glen Motz: To adjourn the debate....

Ms. Rachel Bendayan: Yes, to adjourn the debate.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): This isn't the adjournment of the committee meeting.

Is there a consensus?

(Motion agreed to)

The Joint Co-Chair (Mr. Rhéal Fortin): I rule that we adjourn the debate on Mr. Motz's motion.

Mr. Motz, I think that you wanted to move another motion.

Ms. Rachel Bendayan: Mr. Chair, with your permission, I would like to address a comment made by my colleague Senator Carignan.

He said earlier that our committee's work was quite similar to the work of a commission of inquiry. I want to point out that subsection 63(1) of the Emergencies Act, entitled "Inquiry", provides for a commission of inquiry. Our work is separate, pursuant to section 62 of the act.

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

Mr. Motz, you can now move your next motion.

[English]

Mr. Glen Motz: Thank you so very much, Chair.

I'm proposing the following motion. I'll just wait for its distribution.

I think everyone has it. May I proceed, Chair?

• (1925)

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I think that everyone has the text of the motion.

Mr. Clerk, did the committee members attending the meeting virtually receive it as well?

Mr. Carignan, did you receive it?

Hon. Claude Carignan: Yes.

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

Mr. Motz, you have the floor.

[English]

Mr. Glen Motz: Thank you so much, Chair.

The motion, then, would read, "That the joint committee frame its primary study and its final report under the following themes: one, the events leading to invocation of the Emergencies Act; two, the rationale for invoking the Emergencies Act and the alternative courses of action available; three, the legality of invoking the Emergencies Act; four, the choice and necessity of the regulations and orders adopted under the Emergencies Act; five, the constitutionality of those regulations and orders; and six, the use made of those regulations and orders."

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I'll now turn the floor over to Mr. Green. I've noted that Mr. Harder wants to speak next.

[English]

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

I think this is a really solid start and a really clear pathway for a work plan.

I would, however, like to move an amendment to include, "that the joint committee frame its primary study in its final report, including but not limited to the following themes".

That would give us the flexibility of perhaps pursuing topics that are unbeknownst to us in this moment. It would use this frame as the basis for the work plan, but not keep it limited to that should other courses of interest or study present themselves given new information that's presented on the points that are brought forward.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, do you agree with this friendly amendment?

[English]

Mr. Glen Motz: I agree with that friendly amendment.

Thank you.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): The motion will be amended in accordance with the amendment suggested by Mr. Green.

Mr. Harder, you have the floor.

Hon. Peter Harder: Thank you, Mr. Chair.

[English]

I have a problem with the early bullets of this motion. I would like to speak to that.

We know that under the act there will be an inquiry. The scope of the inquiry is very broad and defined to look at many of the circumstances of certainly the first three bullets, as well as the others.

My reading of the act is that this parliamentary committee has as its focus the implementation and actions taken under the Emergencies Act, not a review of the legitimacy of either the government's invocation of the act or Parliament's vote on the act.

I'm reasonably comfortable with the last three items, but I think the first three intrude on the jurisdiction of the inquiry. I think our work would be helped if the government were to announce the inquiry soon, so that the scope of its work could be clearly defined and our work could be complementary to that.

I'm afraid that we are tilling more than our mandate with this motion.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Thank you, Mr. Harder.

The clerk is drawing my attention to a rookie mistake that I made. I really am a bad chair.

I understood that Mr. Motz agreed with the friendly amendment, but I forgot to ask whether anyone else objected to Mr. Motz's motion being amended to reflect Mr. Green's suggestion.

Does anyone object?

Mr. Virani, the floor is yours.

Mr. Arif Virani: Before we decide whether Mr. Green's amendment is sound, I think that there should be more debate on the entire motion.

[English]

The Joint Chair (Mr. Matthew Green): I have a point of order.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): One moment, Mr. Green.

I gather that we're debating the motion as amended by the amendment. Is that right?

• (1930)

The Joint Clerk of the Committee (Mr. Paul Cardegna): I must check this, since I was distracted. I may have made a mistake.

I understood that Mr. Motz agreed with the amendment, but I don't know whether all the committee members agreed with it. If the committee didn't make a decision on the amendment, it means that the debate now concerns the amendment until the committee makes a decision. That's my understanding of the situation. If I'm wrong, I'm sorry.

The Joint Co-Chair (Mr. Rhéal Fortin): Do we agree that the debate now concerns Mr. Green's amendment?

Mr. Arif Virani: Is it my turn to speak, Mr. Chair?

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Harder had the floor, but I think that he's finished.

Thank you, Mr. Harder.

Mr. Virani, you have the floor.

Mr. Arif Virani: Okay.

Generally speaking, my two Liberal colleagues and I don't agree with Mr. Green's amendment for several reasons.

[English]

Continuing in the vein of what Senator Harder was referencing, it is really important that the committee draw reference to and that the record reflect what subsections 62(1) and 63(1) say in the statute.

Subsection 62(1), which relates to us, the parliamentary review committee, reads:

The exercise of powers and the performance of duties and functions pursuant to a declaration of emergency shall be reviewed by a committee of both Houses of Parliament designated or established for that purpose.

That is this committee with representatives of the Senate and members of Parliament. What we were meant to be looking at is “the exercise of powers and the performance of duties and functions pursuant to a declaration of emergency.”

In contrast—and this came up in the debate we were having about 10 minutes ago—there is also an inquiry contemplated, which has to occur. That inquiry is entrenched in subsection 63(1) of the same statute, which reads:

The Governor in Council shall, within sixty days after the expiration or revocation of a declaration of emergency, cause an inquiry to be held—

Here is the important part:

—into the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.

The key point here is that the inquiry has a retrospective and a prospective element, whereas the review committee does not have a retrospective element whatsoever vis-à-vis what happened prior to the invocation of the declaration. It speaks simply to the exercise of powers and performances of duties under that declaration.

Senator Harder's point is very well taken, because the first three bullets of what Mr. Motz is proposing are retrospective in their nature and, clearly, outside the scope of subsection 62(1). It's open for debate whether the remaining three, these being the choice and necessity of regulations, the constitutionality of those regulations and the use made of those regulations, fit squarely within subsection 62(1). That is my first general point.

The second point I would have is that it may be premature to be looking at this without the advice and input of those people experienced in interpreting these types of provisions, so that people aren't taking my word for it or the word of any of my colleagues. By "those people", I mean perhaps hearing from the law clerk of the House of Commons or the law clerk of the Senate to help us with scoping the study before we take a preliminary decision on a motion without having the benefit of their interpretation of subsections 62(1) and 63(1).

I would also say, as a further submission, that when you look at the context of the motion—now I'm referring to the motion that was passed in the House of Commons, on which six of us voted—it reads in paragraph (a), the very first paragraph of that motion:

pursuant to subsection 62(1) of the Emergencies Act—

That's the section I just read.

—a special joint committee of the Senate and the House of Commons be appointed to review the exercise of powers and the performance of duties and functions pursuant to the declaration of emergency....

Again, it is not retrospective in nature. It is contemporary, what happened when the invocation was declared.

I'll leave it at that, Mr. Chair.

[*Translation*]

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

Ms. Bendayan is next. After that, Mr. Brock, Mr. Motz and Senator Carignan can speak.

Ms. Rachel Bendayan: Thank you, Mr. Chair, but I'll pass. I'll speak after my colleagues.

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Brock, it's your turn.

[*English*]

Mr. Larry Brock: Mr. Chair, this is not an exercise of judicial interpretation of a statute. That is not our responsibility. While I have the utmost respect for my colleague, Mr. Virani, I respectfully disagree with his literal interpretation of the language of this particular statute.

An argument could be made.... I do not dismiss his argument, but our mandate is to provide clarity to Canadians. It's not necessarily just taking a look at a snapshot in time from the date of invocation and reviewing all the circumstances prospectively forward. In my opinion, sir, with all due respect, it would be a dereliction of our responsibility if we did not take a look at all of the circumstances that created the emergency in the first place.

In our view, no one can reasonably be expected to review the declaration without looking at the reasons for the declaration. If the

emergency proclamation was unlawful, it follows that the exercise of powers would be equally unlawful.

• (1935)

[*Translation*]

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

Mr. Motz, you have the floor.

[*English*]

Mr. Glen Motz: Chair, I won't add much more to the eloquence of my friend, but I would agree.

As I read this, once I realized I was going to be on the committee, to me, the exercise of powers is exactly.... In order to understand how those powers were exercised, you have to understand the circumstances that led them to believe they needed to be exercised in the first place.

Canadians—and you have to look at this through the eye of a Canadian who is concerned and watching what we do on this. No one can reasonably be expected to review this declaration and whether it was appropriate or not without looking at the reason behind the invocation in the first place.

If the emergencies proclamation was unlawful, it follows then that the invocation itself, or the exercise of powers, would be equally unlawful, if that's what the conclusion is.

As Mr. Brock said, it would certainly be reasonable for us to have a full view of those who made the decision in the first place to invoke this Emergencies Act. How can we possibly say whether it was appropriate or not without having the same set of circumstances that they looked at to make their decision that we also look at to make our decision?

I would respectfully have to disagree with Mr. Virani and suggest that there might be other bullet points, if we will, about this motion that we can add to this to give us a fulsome....

If you look at it from the perspective of those of us who have been in law enforcement, when you look at an arrest, the lawfulness of that arrest is looked at in its totality, the reasonableness of it. If you're doing a search, was it a warrantless search and was that warrantless search reasonable? You have to look at all the factors that led to that conclusion.

Frankly, I can't make a fully informed decision on whether this was appropriate or not without seeing all the facts that everybody else at that time used to make that decision.

[*Translation*]

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

Senator Carignan, it's your turn.

Hon. Claude Carignan: I agree with my colleague.

The committee's mandate is to review the exercise of powers and performance of duties and functions pursuant to the declaration. We must assess whether this exercise was reasonable. For example, we must look at what was seized and at how and why it was seized. We must determine whether we cast a wide enough net or whether the net was too wide. However, in order to assess whether these actions were legal or reasonable, we need information on what led to the declaration of emergency. We can't assess this *in abstracto*, starting on a certain date and ending on another date, without knowing the background of the decision, the issues involved and the facts that justified the emergency declaration. Otherwise, we'll miss part of the story. When part of the story is missing, we may get things wrong.

It's much better to look at the background and circumstances that led to the emergency declaration. We can then assess the reasonableness of the subsequent actions.

● (1940)

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

Mr. Green, you have the floor.

[*English*]

The Joint Chair (Mr. Matthew Green): Mr. Chair, I want to reflect on this as somebody who, in the House, voted to support the Emergencies Act and is responsible for reporting back to my community about the rationale and the basis of the act. From my perspective, I made a decision based on information that was only made available to the public, not having the privilege of the inside information that the government had to come to this conclusion.

I look at the work plan that's been presented before us and I've heard the comments of Senator Harder. I can only perhaps find agreement with point number three. I would not claim to be a legal expert, but I feel that exploring the legality of the invocation would be to the benefit of the public.

I would state that this legislation as drafted and contemplated in its time was left ambiguous. I would suggest that there's probably case law—although I'm not a lawyer—that would suggest that when legislation is unnecessarily ambiguous, liberal interpretations ought to be had on the legislation to provide fairness for the people who are pursuing it.

In the comments of my friend Mr. Virani, I feel that he was generous in his over-prescription of how he interpreted what is before us, which on its face looks fairly ambiguous. From that perspective, on points one and two, I can't imagine a scenario where we could understand the actions being necessary or proportionate if we don't examine the actions leading up to it.

On the rationale, I would put to this committee that at its height, this country was experiencing a crisis of confidence in our democracy, government and public safety frameworks. There was a crisis of confidence in local policing, provincial policing and national policing. They were seen to be compromised in the events leading up to the invocation of this act in a very public way, livestreamed for the public to see.

Regardless of where people are on this, in terms of whether they supported it or they didn't, whether they were in support of the actions that took place or not, I believe that Canadians deserve to have a fulsome exploration of the topics at hand. I would caution this committee that the crisis is still a very clear and present danger. If we don't act with the kind of care and thoroughness—and by thoroughness, I mean not over-prescribing or unnecessarily narrowing the scope of our exploration of this topic—we will be revisiting this type of crisis in the very near future.

I can't state enough that in supporting this Emergencies Act, as a member of Parliament, I believed there was a national crisis. I don't think that crisis has gone away. I think that we're facing other crises around the world, but it doesn't take away from the fact that cynicism, lack of trust and erosion of faith in our democratic institutions are still very much topics at hand.

What I would put to this committee is that if we rush to defer our responsibility, recognizing that this legislation is not clear, then we risk a review process that is so overly legalistic that it lacks socio-political context for the average Canadian to fully understand and unpack what happened. What I mean is that there is heightened rhetoric and hysteria around what is and isn't democracy, freedom or the ability to lawfully assemble for the purpose of your democratic rights. With all of these topics, I think, as elected parliamentarians, it would be the only opportunity where we have a chance to contemplate these things in a way that isn't overly obscured by legal language in some kind of judicial review.

It's a unique opportunity. If we don't deal with it well, if it's perceived to be any kind of cover-up or to give credence to any kind of conspiracy, mark my words, we'll be back in this committee within a year and a half.

● (1945)

That's the care with which I hope this committee deals with the undertaking. I hope, and I would ask, that my colleagues around the table provide a liberal interpretation to legislation—

Mr. Glen Motz: Small-l.

The Joint Chair (Mr. Matthew Green): —small-l, yes, very small—that is not clear, not prescriptive, and a place that gives us the opportunity here to continue to operate in the way in which we're operating.

Again, I don't know if the senator was in the room. Just to recap, I concede that we might not be the appropriate place to determine the legality of invoking the emergency act. I agree to that point. But on the first two points, it is absolutely contingent that we go to the preconditions and that we explore the failures of public safety frameworks. Ultimately, the decision to invoke a national emergency act requires the breakdown of previous levels of government and requires the inability to adequately deal with the matters at hand.

As we work through this work plan, again, I really implore members around this table to give this the breadth that it's going to need, to unpack in a public way and to provide socio-political commentary on something that goes beyond just the legalese of whether or not invoking the act was constitutionally sound. Quite frankly, when this was drafted, I don't think this situation was ever contemplated, so regardless of who's dealing with that in the judicial inquiry, I don't think they are going to be able to come up with an answer that meets the socio-political times of the moment. That's how fragile this is.

I know that I have taken up some time on this, but I need to underscore, as somebody who supported this thing, how important it is that I go back to my community and let them know that at this committee, we provided the full opportunity for a complete and thorough and careful analysis of what happened.

[*Translation*]

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

I have Mr. Naqvi, Ms. Bendayan and Mr. White on my list. If there are other people that I haven't noticed, please let me know.

Mr. Virani, I'm adding you to the list.

Mr. Naqvi, you have the floor.

[*English*]

Mr. Yasir Naqvi (Ottawa Centre, Lib.): Mr. Chair, I appreciate the sentiment that has been expressed by various members of this committee, but I do want to remind my colleagues that we have to look at the statute under which we have been created.

Our mandate is outlined in section 62 of the Emergencies Act, and section 62 is not the only provision that is enumerated in this particular piece of legislation. There are more processes than one that have been clearly outlined in this act. It's no coincidence that it's written that way.

Clearly, Parliament, when it passed this legislation, contemplated two different processes to take place. Therefore, they used different language in defining those two processes, i.e., the one that's outlined in section 62, under which we are constituted—and Mr. Virani went through the language quite well—and section 63, which clearly refers to an inquiry and has very distinct and different language in terms of the scope of that particular process.

Furthermore, we also should look at the entire statutory scheme that is outlined in the Emergencies Act. We are here because there was a declaration of emergency that was invoked and that was debated before the House of Commons and approved by a majority of members of the House of Commons. That is why the declaration went forward. Again, that particular process is a result of the steps that are outlined in the Emergencies Act as well.

I outline all these points to make a very specific point that there is very careful deliberation in this legislation in terms of checks and balances that Parliament had considered as to the process or the steps that must be followed when an emergency is invoked, and we have been pursuing all those steps until this point.

It would be wrong for us or erroneous on our part if we deviate from that process. Therefore, I would request that we look at section 62 and understand the words that are outlined in section 62, which are to consider, “The exercise of powers and the performance of duties and functions pursuant to a declaration of emergency” and that is the key document we should be considering, and how those powers were exercised and how they were performed. That is our role.

When I look at the motion in question and look at the first three bullets, I'm finding language that is very much in line with what's outlined in section 63 of this act, not section 62. If that process, of course, did not look at what circumstances led to the declaration, then they most likely will not be fulfilling their obligation, but in this instance, we have to be quite attentive to ensure that we fulfill the duties we've been asked to under section 62, under which we are constituted.

I therefore suggest that definitely the first three bullets of the motion proposed by Mr. Motz do not meet the criteria outlined in section 62 of the Emergencies Act.

● (1950)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan, you have the floor.

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

I have a few comments regarding the remarks that I just heard.

[*English*]

I'll begin with a few of the things mentioned by my colleague Mr. Green.

With the utmost respect, I do take issue with his reference to the fact.... I believe he said we shouldn't be covering up anything here. Nobody is covering up anything here. It's quite the contrary. Not only do we have this committee doing this work, but we also have a full inquiry that will be put in place between now and April 24. There is an interest on all sides of this House, and very much on this side, to continue to delve into this matter and to provide answers to Canadians. I would remind my colleague that we also have to provide that transparency and those answers in a timely fashion.

I would also like to take issue with the fact that what we are talking about here is very much dependent on the advice we will receive from.... I believe we just agreed to, and we can eventually discuss a motion to that effect, legal counsel, either independent legal counsel, as Mr. Motz proposed, or the law clerk or the Senate law clerk.

In this discussion, I believe it was my colleague Mr. Green who referred to what he believed was the legislative intent of section 62. I would propose that we must hear from former Conservative minister Perrin Beatty, who is the drafter of this piece of legislation, if we are to delve into the legislative intent of section 62 and the work of our committee.

I would like to move at this time that we adjourn debate on this motion and that we discuss a motion which was previously circulated to invite with urgency the law clerks, as well as the Honourable Perrin Beatty, in order for us to get a sense of the issues that we're all speculating on, and then come back to this motion as put forward by my colleague Mr. Motz.

To be clear, Mr. Chair, I move to adjourn debate.

• (1955)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan, I gather that you're suggesting that we adjourn the debate on this motion and hear from Perrin Beatty and the law clerk and parliamentary counsel for the House. Is that right?

Ms. Rachel Bendayan: Mr. Chair, I have a motion to that effect. I fully understand that there can't be two motions before the committee at the same time.

The Joint Co-Chair (Mr. Rhéal Fortin): I just want to make sure that I understand your motion and that we're talking about the same thing. Is your motion simply to adjourn the debate or does it also include the fact that—

Ms. Rachel Bendayan: If I could do so, I would, but I don't think that I'm allowed.

The Joint Co-Chair (Mr. Rhéal Fortin): Right now, we must vote on the motion to adjourn the debate.

Ms. Bendayan announced that she would subsequently move a motion to hear from expert witnesses who can shed light on the purpose of the act.

Is there unanimous consent on the motion?

A voice: No.

The Joint Co-Chair (Mr. Rhéal Fortin): In that case, Mr. Clerk, I'll let you proceed with a recorded division.

[*English*]

Ms. Rachel Bendayan: The motion is to adjourn debate on this motion.

Hon. Vernon White: And to call witnesses.

Ms. Rachel Bendayan: I'm ready with that one.

The Joint Clerk of the Committee (Mr. Mark Palmer): There is a motion to adjourn debate on this motion.

(Motion agreed to: yeas 6; nays 5 [*See Minutes of Proceedings*])

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): The motion to adjourn the debate was carried.

Ms. Rachel Bendayan: Mr. Chair, I would like to move my other motion.

The Joint Co-Chair (Mr. Rhéal Fortin): Go ahead, Ms. Bendayan.

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

The text of my motion has already been distributed, but I'll read it for the record:

That at the next meeting of this committee, the law clerk and parliamentary counsel for the House and for the Senate be invited to appear before the committee to discuss its scope for a period of one and a half hours...

[*English*]

Mr. Larry Brock: I have a point of order.

[*Translation*]

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

[*English*]

Mr. Larry Brock: Ms. Bendayan indicated that this was distributed. I haven't received anything.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I believe that it was sent by email.

Do you have more copies of the motion, Ms. Bendayan?

• (2000)

The Joint Clerk (Mr. Paul Cardegna): This motion was distributed electronically at the last meeting.

[*English*]

We can send it again if people want it.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I agree. It would be easier that way.

Ms. Rachel Bendayan: I'm distributing hard copies with the help of the clerk.

The Joint Co-Chair (Mr. Rhéal Fortin): Now that we all have a copy of the motion, I'll give you the floor, Ms. Bendayan.

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

I'll continue with the second sentence:

...the drafter of the Emergencies Act...

Hon. Claude Carignan: Excuse me, Mr. Chair. Could I have the motion emailed to me, please?

The Joint Co-Chair (Mr. Rhéal Fortin): The clerk will send it to you, Senator Carignan.

Ms. Rachel Bendayan: Sorry, Senator Carignan. I think that the clerk is sending it to you now.

I'll continue with the motion.

...former Defence Minister...

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan, I think that we should wait a bit and give the clerk time to send the motion.

[*English*]

Mr. Larry Brock: I have a point of order, Mr. Chair.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): One moment, please.

Hon. Claude Carignan: You can continue. I imagine that we'll receive the motion by email in the next few seconds.

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendantan, please wait a moment before continuing. Mr. Brock has a point of order.

[English]

Mr. Larry Brock: Thank you, Mr. Chair.

I require some clarification. I'm led to believe that what was distributed today on behalf of Ms. Bendantan differs in the wording from what was presented at last Tuesday's committee meeting. Unfortunately, I don't have that particular document to compare it, but I was informed by our staff that it does differ.

I'm wondering which particular amendment or which version of the motion she is proposing.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendantan, is the motion that you started to read the one that you just gave us today?

Ms. Rachel Bendantan: That's right. I would like to provide some clarification for my colleague Mr. Brock, if I may. Otherwise, I can continue to read the motion.

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, you can clarify that.

Ms. Rachel Bendantan: May I stop reading the motion?

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, you can provide the necessary clarifications.

[English]

Ms. Rachel Bendantan: To clarify, Mr. Brock, what has changed in the motion circulated and now before you is simply the one and a half hours for each panel of witnesses, because between last meeting and today, it is my understanding that we have now, through all whips and Senate staff, agreed to three-hour meetings. I believe that is the only change you will find between the two versions and it reflects a matter of timing.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Brock, are you in agreement with our working from the motion we have before us?

[English]

Mr. Larry Brock: That's fine.

Thank you.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Green, you raised your hand. Do you have a point of order or can we let Ms. Bendantan read the motion before we discuss it?

[English]

The Joint Chair (Mr. Matthew Green): It's stemming from a point of order. I don't have to make it a point of order, but in the original motion, it does state in the second portion of it, as I am to read here, that former defence minister Perrin Beatty be invited to appear before the committee alongside other witnesses and that's absent.

I just wonder, in contemplation of the previous discussion we had around outside counsel, if this might be where our first conversation around outside counsel would be included. If that's the case, I can see this turning into a much longer discussion, because now we're going to have to identify and engage outside counsel.

I think that's the debate to be had. If it's the opinion of members around the counsel that we would strictly allow the terms of this committee to be defined by the people who are outlined by the mover of the motion and not contemplate outside counsel, that might have cause for further debate.

• (2005)

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Do you want to speak to this point of order, Mr. Motz?

[English]

Ms. Rachel Bendantan: Mr. Chair, I'm not sure that was a point of order, but I'm happy to answer it if that's helpful.

The Joint Chair (Mr. Matthew Green): It is a point of order, because it's not the same.

Ms. Rachel Bendantan: It was a two-hour period when we were contemplating two-hour meetings. Now that it is possible to do two panels within one three-hour meeting, in 1.5 hours we would not have time for more witnesses.

However, colleague, I take your point.

I would also like to clarify that there is nothing in this motion that states we would need to come to any conclusion following this panel. We can absolutely speak to outside legal counsel should the majority of this committee wish to do so. There's nothing limiting that possibility in this motion.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I yield the floor to you on this point of order, Mr. Motz.

[English]

Mr. Glen Motz: Thank you, Chair.

Quite honestly, I have no issue with the motion in dividing them up, but I have to agree with Mr. Green.

We're talking about bringing witnesses in who are going to help us frame a scope. In helping us frame a scope, we then need counsel. I think the counsel will help us frame a scope. I agree that these people need to be here. An hour and a half each is fine. However, if we're doing this for next Tuesday, we still haven't settled the legal counsel issue and I think we need to have legal counsel here to have this conversation, because counsel might be able to provide some sort of balance to what we're hearing from the law clerk and from the drafter of this original legislation.

[*Translation*]

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

I remind you that we are still discussing Mr. Green's point of order. We still have Mr. Green, Mr. White, Mr. Virani and Ms. Bendayan who wish to speak on this. I would point out that it is almost 8:10 p.m. and that we have the room until 9 p.m. I just want to remind you of that, because I want to do my job properly.

So we'll continue.

We will now hear from Mr. Green.

The Joint Co-Chair (Mr. Matthew Green): No, that's fine. Thank you.

The Joint Co-Chair (Mr. Rhéal Fortin): So we'll move on to Mr. White.

[*English*]

Hon. Vernon White: I'll be brief.

My expectation is not that they would frame anything for us. They would give us evidence, and I would like to hear their evidence. I don't believe it's the time to call on external legal counsel. I just want to hear their evidence about what their thinking was, and then we will make a determination about our scope.

[*Translation*]

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

[*English*]

Mr. Arif Virani: I wholeheartedly agree with the interpretation that was just provided by Senator White, but I also question some of the vernacular that's being thrown around. We've heard talks about "independent counsel" or "the law clerk".

I'm going to reiterate that I do believe that the law clerk, who serves 338 members of Parliament in an impartial way, is independent. He or she gives impartial advice to all members of Parliament.

I would cite what's in appendix 10 of *House of Commons Procedure and Practice*, second edition, 2009. It says that the "Law Clerk and Parliamentary Counsel is responsible for providing legal advice to Members of Parliament, the House of Commons standing committees..." That's their job. I want to make sure we're all on the same page in that regard.

I would reiterate Senator White's interpretation that this isn't the *point final*. We're just starting out on this journey.

It would be useful to hear from the law clerk of both the House of Commons and the Senate, and also from former minister Beatty. They could provide us with some evidence in respect of their views on section 62 and section 63 and what was contemplated at the time of drafting.

Then it is up to the 11 of us, or however many there are, to make a determination about what the scope shall be. That's our decision.

● (2010)

[*Translation*]

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

Ms. Bendayan, you have the floor.

Ms. Rachel Bendayan: Mr. Chair, I see that we are indeed debating this motion.

The Joint Co-Chair (Mr. Rhéal Fortin): That's what I think too. It bothers me, because I was under the impression that we were discussing Mr. Green's point of order.

Ms. Rachel Bendayan: I think we've moved on, and that's fine.

The Joint Co-Chair (Mr. Rhéal Fortin): I do not have any objection to returning to the debate on this motion.

Ms. Rachel Bendayan: I have no objection either. In fact, what I would suggest to you, Mr. Chair, is that we go straight to the vote.

The Joint Co-Chair (Mr. Rhéal Fortin): All right, thank you.

Is everyone ready for the vote?

The vote is on Ms. Bendayan's motion, which we received a few minutes ago.

I'll let the clerk proceed with the vote.

(Motion agreed to: yeas, 11; nays, 0. [*See Minutes of Proceedings*])

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan's motion carries unanimously.

Mr. Clerk, since we adjourned the debate on the previous motion and we have just passed Ms. Bendayan's motion, shall we adjourn and call the proposed witnesses, or shall we continue the meeting?

The Joint Clerk (Mr. Paul Cardegna): What I would suggest to you is that if anyone else wants to make a motion [*Inaudible—Editor*].

The Joint Co-Chair (Mr. Rhéal Fortin): All right. So we could invite them to the next meeting.

[*English*]

Mr. Yasir Naqvi: Mr. Chair.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I heard "Mr. Chair", but I don't know who said it.

[*English*]

Mr. Yasir Naqvi: I did.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I'm not used to being called "Mr. Chair".

[English]

Mr. Yasir Naqvi: You're doing a really good job, Mr. Chair. Get used to it.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Thank you, Mr. Naqvi.

You have the floor.

[English]

Mr. Yasir Naqvi: Mr. Chair, I would like to put forward another motion. The motion reads, "That the Deputy Prime Minister and Minister of Finance, the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness, the Minister of Public Safety, and the Minister of Justice be invited to appear before this committee at a date chosen by the committee members and subject to their availabilities to discuss measures invoked on February 5 to 14, 2022, under the Emergencies Act, for a period of two hours."

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, you have the floor.

Then we will hear from Mr. Green and Mr. Harder.

[English]

Mr. Larry Brock: You called me Mr. Motz, but that's okay.

[Translation]

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

You have the floor.

[English]

Mr. Larry Brock: Thank you, Chair.

I have a friendly amendment to propose with respect to Mr. Naqvi's motion on the table. It is after the words, "Minister of Justice be invited to appear before this committee". The amendment is "at dates"—dates—"chosen by the committee members and subject to their availabilities to discuss measures invoked on February 5 to 14, 2022, under the Emergencies Act, for a period of two hours", and the friendly amendment being sought is the word "each".

Two friendly amendments are being sought: the word "dates" and the word "each".

Thank you.

• (2015)

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): The people on the list I had wanted to speak to the main motion.

Does anyone want to speak to the amendment proposed by Mr. Brock?

Mr. Green, you have the floor.

[English]

The Joint Chair (Mr. Matthew Green): Thank you very much.

If I recall, my friend Madam Bendant suggested that an hour and a half would be required for an individual witness, and I feel that this keeps in that spirit. We certainly wouldn't want to have a scenario where all these ministers were in for one date, so I think that was a very appropriate amendment, and I support it.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Clerk, I would like a procedural clarification. With regard to the suggestion to have each witness for an hour and a half rather than two hours, is that a subamendment to the amendment?

[English]

The Joint Chair (Mr. Matthew Green): No, it's not an amendment. I was just referencing it for clarity. My apologies.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): All right. You're telling us what you would have liked, but you're not making it a motion.

[English]

The Joint Chair (Mr. Matthew Green): I will speak no further—

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I understand.

Does anyone else want to speak?

Mr. Virani, you have the floor.

Mr. Arif Virani: Thank you, Mr. Chair.

I would like to highlight three things.

First, we are preparing the list of witnesses. Those who have been mentioned will, of course, be invited.

[English]

It's fairly evident or obvious that you would invite the ministers.

Apropos to what Mr. Brock has suggested, I would raise a couple of points.

One is that there is some utility in having ministers in the room at the same time, and I say that only because sometimes it can be frustrating. I say this as a guy who has been frustrated in court at times when you don't have the right person in the witness box. You ask them a question, and they defer to, "Well, that's not under my knowledge; that's in the knowledge of person X", so it would be useful to have person X or minister X in the room at the same time so that people aren't shifting responsibility for answering a certain question.

Just on crude mathematics, and, again, math is not the forte of most lawyers, so work with me here, but Mr. Brock has suggested dates and for two hours each. Hypothetically, if you had each minister on one of those dates, you might have four meetings of two hours, and that's eight hours. The original contemplation was two hours in total.

Perhaps there might be a compromise that could be achievable where, since we're now in the world of three-hour meetings, instead of a total of eight hours, we have a total of six hours with two three-hour meetings with all of the ministers present. Maybe in the committee's infinite wisdom, you might want two ministers for one of the meetings and two ministers for one of the other meetings.

I just put that on the floor as a suggestion.

[*Translation*]

Thank you.

The Joint Co-Chair (Mr. Rhéal Fortin): Are you moving an amendment, Mr. Virani?

Mr. Arif Virani: This is a general amendment, which I have summarized without using the specific words. We can say

[*English*]

“at dates chosen”

[*Translation*]

and specify that it is for a three-hour period.

It's important that it be three hours, as we've already taken three hours for the other meeting.

The Joint Co-Chair (Mr. Rhéal Fortin): As I understand it, we're going to vote on the proposal that was just made, the proposal to add an “s” to the word “date” and to add the word “each” after the words “two hours”. Then we will consider Mr. Virani's amendment.

Hon. Claude Carignan: Excuse me, Mr. Chair.

If I may, I would like to speak.

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

Hon. Claude Carignan: Under the rules that we adopted last week with respect to speaking turns, I don't want us to get to the end of the hour and a half and have to cut short the second round of questions from senators.

In the normal scenario of testimony that is kept to a certain time frame, I wonder if this period will be enough and if senators will be able to have a second turn if everyone asks questions.

The Joint Co-Chair (Mr. Rhéal Fortin): For the time being, a two-hour period for each of the witnesses is scheduled, according to the fourth motion under consideration.

The amendment provides for a two-hour period for each one.

• (2020)

Hon. Claude Carignan: Two hours for each is fine with me.

The Joint Co-Chair (Mr. Rhéal Fortin): So I move that we vote on this amendment.

Ms. Bendayan, you have the floor.

Ms. Rachel Bendayan: I would like to ask the clerk to clarify what the amendment is before we vote on what is being proposed.

The Joint Clerk (Mr. Paul Cardegna): What I understand from Mr. Brock's amendment is that

[*English*]

the words “a date” be replaced with “dates”, and then, after the words “two hours”, the word “each” is added.

Ms. Rachel Bendayan: Each minister would appear for a period of two hours. Is that the amendment being proposed by Mr. Brock?

Mr. Larry Brock: That was the original amendment. I am prepared, in light of the commentary I have heard, to make a further suggestion—that all four ministers appear for six hours. That could be broken down into increments of two three-hour periods.

Ms. Rachel Bendayan: Would each minister be separate?

Mr. Larry Brock: Yes. I understand and appreciate Mr. Virani's very thoughtful suggestions that from time to time, as we often see in the House in question period, when a question is posed to a particular minister and that minister may be present, there may be an element of the question that's better addressed by another minister. I understand that and I get that. However, in the conduct of this particular hearing, while I appreciate that this is by no means a trial, a civil trial or a criminal trial, we ought to strive for some level of independence.

This is not going to be the proverbial cakewalk for ministers. They're going to be required to delve into some serious issues. I don't want this to be a situation where a minister may not like a particular question being put to him or her and simply defer it to another minister to provide an answer. I think there has to be some degree of independence.

I have no problem with them being in the vicinity, but with regard to being able to defer to another minister, I would prefer to have the minister who's being questioned provide some response. He or she can simply say, “I'm not aware” or “That's not part of my jurisdiction; you'd better ask Minister Such-and-such.” That's okay.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Brock, if I understand your comment correctly, you would be prepared to withdraw your proposed amendment, and we would debate Mr. Virani's amendment. Mr. Virani's amendment proposed that rather than having a two-hour period for each witness, we would have a total period of six hours.

Would you agree to that, Mr. Brock?

[*English*]

Mr. Larry Brock: It would be two three-hour periods.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): There would be a total period of six hours.

Senator Carignan, your hand is up. Do you wish to speak?

Hon. Claude Carignan: Yes. I'd like to have some information.

The Joint Co-Chair (Mr. Rhéal Fortin): Before I hear your comment, I just want to make sure that Mr. Brock is in agreement.

At the moment we are discussing Mr. Brock's amendment.

Mr. Brock, do you agree to withdraw your amendment so that we can move on to Mr. Virani's amendment?

Ms. Rachel Bendayan: Mr. Chair, I think it's still Mr. Brock's amendment. It is Mr. Brock who wants to add to what Mr. Virani proposed earlier.

The Joint Co-Chair (Mr. Rhéal Fortin): The amendment that we are considering is that each witness would be heard for two hours. What I understand from our discussions is that we would like the question period to be six hours in total.

Am I mistaken?

Mr. Arif Virani: May we take a quick three-minute break?

The Joint Co-Chair (Mr. Rhéal Fortin): Yes. We'll take a break.

• (2020) _____ (Pause) _____

• (2025)

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz wanted to propose an amendment to Mr. Brock's motion, which might resolve the dilemma, but Mr. Carignan had already begun speaking.

If your comments are still relevant, Senator Carignan, we will listen.

Then I will give the floor to Mr. Motz.

Hon. Claude Carignan: I would like to get some information from the clerk.

I'm looking for the information in last week's notes, and I can't find it. I know we had discussed the speaking time for each of the committee members, and the second round.

If I remember correctly, at the end of the second round, the Senators will speak. If everyone uses their allotted time, will an hour and a half be enough time for the ministers to make their opening statements and for each of the members of the committee to have two turns?

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

The clerk of the Senate would like to give us some information on this matter.

The Joint Clerk (Mr. Mark Palmer): According to the calculations, there will be enough time, but it obviously depends on the length of the ministers' statements.

The Joint Co-Chair (Mr. Rhéal Fortin): I believe we had set a time limit for speeches.

Hon. Claude Carignan: That's right.

The Joint Co-Chair (Mr. Rhéal Fortin): The clerk tells me that the limit for the opening statement is five minutes and then we'll go to question period. We will have time in an hour and a half to do the full rounds.

Does that answer your question, Senator Carignan?

Hon. Claude Carignan: Yes, that's perfect. That's what I was worried about.

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

Mr. Motz, you have the floor.

[*English*]

Mr. Glen Motz: Thank you very much, Chair.

In reference to the amendment from Mr. Brock, I wish to propose a friendly amendment that changes the wording here on this, and I believe it will find support from across the way. It is that we change it to "dates chosen" and then "invoked on February 14th under the Emergencies Act for a period of 1.5 hours each". That would mean each minister would have 1.5 hours, for a total of six hours between the four ministers. Now for those of you who are lawyers, 1.5 times four is six hours.

Voices: Oh, oh!

The Joint Co-Chair (Mr. Rhéal Fortin): Are you sure?

[*Translation*]

Does anyone wish to speak on Mr Motz's proposal?

Mr. Green, you have the floor.

[*English*]

The Joint Chair (Mr. Matthew Green): Just to speak to the conversation around their introductory remarks, I have found it immensely helpful in some other committees when ministers provide their remarks to us in advance. That will give us time to contemplate it and have them before us. It will obviously give the translators the opportunity there as well. If we could put that small administrative request in, that would be helpful. If we require them 48 hours in advance... I've also been on committees where those remarks have been distributed 10 minutes before the meeting, and that's not quite as helpful.

• (2030)

[*Translation*]

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

The clerk advises me that under the housekeeping motions we adopted at our March 14 meeting, witnesses are strongly encouraged to submit their speaking notes 72 hours prior to the meeting.

In theory, this should work, but I don't think we can force them to do so. It is already in our housekeeping rules.

Do you agree with that, Mr. Green?

The Joint Co-Chair (Mr. Matthew Green): Yes, that's fine with me.

The Joint Co-Chair (Mr. Rhéal Fortin): Is everyone in agreement, or does anyone want to speak on Mr. Motz's friendly amendment?

Shall we proceed to the vote or is there unanimous consent?

I find that there is unanimous consent.

(Motion agreed to)

The Co-Chair (Mr. Rhéal Fortin): We will now work on Mr. Brock's motion, which has been amended by Mr. Motz. The proposal is to allow an hour and a half for each witness, for a total of six hours.

Mr. Virani, you have the floor.

Mr. Arif Virani: I'd like to comment on another issue.

The Joint Co-Chair (Mr. Rhéal Fortin): You'd like to comment on another issue?

Mr. Arif Virani: Have we voted yet?

The Joint Co-Chair (Mr. Rhéal Fortin): In fact, there was unanimous consent. We are now dealing with Mr. Brock's motion as amended by Mr. Motz.

Could you call the question, Mr. Clerk?

There is unanimous consent.

(Motion agreed to)

The Joint Chair (Mr. Rhéal Fortin):

This is too easy; I am not used to this. So we'll move on to the next item.

Mr. Virani, do you want to speak?

Mr. Arif Virani: Yes. I would like to move another motion, which all members of the committee have already received.

[*English*]

Mr. Glen Motz: I have a point of order.

We have not voted on the last one. We voted on the amendment for 1.5 hours, but we didn't vote on the main motion.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): I had understood that it was done. That's what I asked for. I wanted us to vote, but I was told that Mr. Brock's proposal, which you amended, Mr. Motz, was unanimous.

That is the motion that we have just adopted unanimously. If I have misunderstood, please correct me. If not, I think we are ready to return to the agenda.

[*English*]

Mr. Glen Motz: So now we're going to vote on the main amendment and—

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): No, it was adopted.

[*English*]

Mr. Glen Motz: No, that was not my understanding at all.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): So we're going to vote.

You may proceed to the vote, Mr. Clerk. We'll vote on Mr. Brock's motion, as amended by Mr. Motz.

The Joint Clerk (Mr. Paul Cardegna): In my view, the confusion arises from the fact that it was Mr. Motz's subamendment, and

by the same token, Mr. Brock's amendment, which were referred to, but both of these proposals related to Mr. Naqvi's motion. In my view, Mr. Motz is suggesting that the committee be asked whether it is in favour of Mr. Naqvi's amended motion.

The Joint Co-Chair (Mr. Rhéal Fortin): The motion as it currently stands...

[*English*]

Mr. Glen Motz: Chair, if I may?

The Joint Co-Chair (Mr. Rhéal Fortin): Yes.

Mr. Glen Motz: Before we vote on Mr. Naqvi's motion, I think it's fair that we actually adjourn that vote and adjourn the debate on that. I think at this stage we are now receiving witness testimony when we get to this motion, and we need to sort out the legal issue first before we start dealing with witness testimony.

I don't disagree with it. I'm just saying let's hold it in abeyance until we sort out the legal issue.

● (2035)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): There is a motion to adjourn.

[*English*]

Mr. Glen Motz: It's a motion to adjourn debate on this motion.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): All right.

Does anyone wish to speak to the motion to adjourn? I see that you don't.

So we will vote on Mr. Motz's motion that we adjourn the debate on the fourth motion, which was made by Mr. Naqvi.

Mr. Clerk, you may proceed to the vote.

[*English*]

Hon. Vernon White: Excuse me, Mr. Chair.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, Mr. White?

[*English*]

Hon. Vernon White: No, disregard it. Thank you.

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

(Motion negated: nays 7; yeas 4)

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): We will return to Mr. Naqvi's motion, which is the fourth motion, amended by Mr. Motz and Mr. Brock.

Mr. Green, you have the floor.

[*English*]

The Joint Chair (Mr. Matthew Green): Thank you.

I'm just referencing, in the wording of this.... It's important, in our work planning, that we get a good lexical order on our scheduling. It still feels like, in reviewing this, that we have the opportunity to pick the dates when these folks will come in. I think it's obvious that we're going to need to see these folks anyway, but what I caution is that we don't put the cart before the horse and have a scenario where we're boxed in on our scheduling. I just want to earmark that the dates are at the selection of our committee.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan, you have the floor.

[*English*]

Ms. Rachel Bendayan: I find myself in the position of vehemently agreeing with Mr. Green. This was the point I was going to make: There is nothing in this motion that specifies when these ministers need to come before the committee. I think the committee will be able to decide. Further to Mr. Motz's intervention earlier, if he wishes to hear from other witnesses before the ministers, I think that's entirely possible.

Given the importance of efficacy in this committee, as we have debated this motion, I request the chair move the committee to a vote.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): As there is no one else on the list, we can proceed to vote on Mr. Naqvi's motion, amended by Mr. Motz and Mr. Brock.

Mr. Clerk, please proceed with the vote.

• (2040)

[*English*]

The Joint Clerk (Mr. Mark Palmer): We're voting on the motion as amended.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Is that clear? Do you want us to read the motion again?

I see it's clear to everyone.

[*English*]

The Joint Clerk (Mr. Mark Palmer): Everybody agrees.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Everyone is in agreement, so the vote is unanimous.

(Motion agreed to)

Mr. Arif Virani: I have another motion.

The Joint Co-Chair (Mr. Rhéal Fortin): You may submit your motion, Mr. Virani.

Mr. Arif Virani: It has already been distributed. It reads as follows:

[*English*]

“That officials from the Department of Public Safety, the Department of Finance and the Department of Justice and from the RCMP,

CSIS, CBSA and FINTRAC be invited to appear before this committee at a date chosen by the committee members, to discuss measures invoked on February 14 under the Emergencies Act, for a period of three hours.”

[*Translation*]

This change reflects our decision to hold three-hour meetings every Tuesday evening.

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Harder, you have the floor.

[*English*]

Hon. Peter Harder: I just have an observation. Those are all appropriate, but I think three hours.... It's too many witnesses for too short a time.

Can we break it up in a fashion where we would have two sessions of three hours with half of each? There's a logical separation of the two. I'd be afraid that we wouldn't have enough time for some of the witnesses, and this is going to be important and ground-setting.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Virani, could this be a friendly amendment?

Mr. Arif Virani: Yes. We could say this:

[*English*]

“to appear before this committee on two dates chosen by the committee members”, etc.

[*Translation*]

At the end, it would be:

[*English*]

“for a period of three hours each.”

Does that work?

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Finally, there would be a total of six hours.

Do you agree with that, Mr. Virani?

Mr. Arif Virani: Yes, I do.

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

[*English*]

The Joint Chair (Mr. Matthew Green): There are a couple of things. This list seems to be a little bit more robust than the previous one in terms of the numbers we have. We may need a third one.

The other thing I picked up on is that these motions are prescriptive. With what we have done in the previous motion and what may have been interpreted in this one, I want clarity, to put it on the record now, whether we have made a de facto decision on the scope by suggesting that the people here are only here to discuss the measures invoked on February 14.

I would like to ask the movers if they would provide clarity on whether or not they have pre-emptively narrowed the scope prior to us seeking the legal interpretation that we agreed, I thought in good spirit, we would wait to receive.

I would like to ask the movers of this motion and the previous one if they would be willing to clarify whether or not they would allow these motions to be interpreted in a manner that would be consistent with the feedback we receive from legal counsel, or if they have prescribed in these motions specificity that would limit the ministers and limit the members of the public safety committees that have been listed to only discussing those things on the 14th.

Mr. Arif Virani: Mr. Chair, the answer, of course, is that there's nothing in this motion that would limit the scope. The scope is to be determined by this committee after we hear from the people we want to hear from. Ultimately, the determination as to what is appropriately put to the witnesses who appear before this committee will be made on a case-by-case basis by whoever sits in that chair, based on the relevance to the scope, whatever we determine the scope to be for this committee.

There is no effort, through the back door or the front door, to limit the scope via these motions. These are simply somewhat matter-of-fact motions about groups, entities or ministers whom it is fairly obvious we will need to hear from for the purposes of this parliamentary review committee.

[Translation]

Thank you.

[English]

The Joint Chair (Mr. Matthew Green): I appreciate that. There have been lots of discussions about backdoor socialism and everything else within the House. I'm glad it hasn't bled over into this committee.

If I could, though... We have the third potential date. This isn't just going to be two meetings. Is that clear?

• (2045)

Mr. Glen Motz: Yes, but we have an amendment as well. We would like to add more people to that.

The Joint Chair (Mr. Matthew Green): I still have the floor. If I could just put the question, have we determined how many dates there are going to be?

Again, this is just a date. I hope we would be able to rectify this in the same way we did the last one, using the same logic.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): What is proposed is two three-hour meetings, for a total of six hours.

Is that correct?

The Joint Co-Chair (Mr. Matthew Green): Yes.

The Joint Co-Chair (Mr. Rhéal Fortin): So it's two days. Perhaps an "s" should be added to the word "date", but it doesn't matter.

[English]

The Joint Chair (Mr. Matthew Green): Thank you for that.

I would suggest that, with the Department of Public Safety, the Department of Finance, the Department of Justice, the RCMP, CSIS, CBSA and FINTRAC, it would likely be a three-day study. We would have to provide the time there for the three days.

I would move an amendment that we add a day for consideration, just so we're not overburdened.

This three-hour meeting at the end of this day has been a long one. I'm just contemplating future evening meetings for three hours. I want to make sure that we have the ability to explore this stuff in a meaningful way.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): That would be three meetings of three hours each over three days, for a total of nine hours.

Is that the meaning of your amendment, Mr. Green? Is that what you are proposing?

[English]

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

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Is there agreement on this?

Mr. Arif Virani: No.

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Brock, would you like to speak to Mr. Green's proposal?

[English]

Mr. Larry Brock: I also have a friendly amendment for consideration with respect to this particular motion.

[Translation]

Hon. Claude Carignan: Mr. Chair, I also asked for the floor.

The Joint Co-Chair (Mr. Rhéal Fortin): I'm going to give you the floor, Senator Carignan, but I would remind you that Mr. Green has proposed an amendment and that, as I understand it, we should vote on this amendment before we hear another amendment, unless there is unanimous consent.

If there isn't unanimous consent on the proposed amendment, we will have to vote on the proposal.

Is that what you wanted to speak to, Senator Carignan?

Hon. Claude Carignan: I want to speak to the amendment, if I may.

The Joint Co-Chair (Mr. Rhéal Fortin): Go ahead, Senator Carignan.

Hon. Claude Carignan: I was looking at both the main proposal and the amendment, and I was putting it in the context of having already heard from ministers. We are currently planning to hear from officials and law enforcement agencies for several days.

When are we going to hear from the advocacy organizations or the banks that had to implement these measures and the people affected by the situation and hear about the various problems they had?

In fact, I am concerned that the views are not balanced. I would remind you that we were trying to strike a balance between the different points of view of the witnesses. It seems to me that our choice of witnesses is leaning heavily in one same direction. I'm not sure we're going to be able to get the balance right in subsequent meetings.

I'm a little concerned that we're a little too quick to put together our witness list from government agencies or law enforcement agencies for several days in a row. It seems to me that maybe we should slow down. We could hear from ministers and then bring in witnesses with different points of view.

• (2050)

The Joint Co-Chair (Mr. Rhéal Fortin): Next up, we have Mr. Harder and Mr. Green.

Further to Senator Carignan's comments, I would like to clarify that, as I understand it, we aren't in the process of establishing the order for the witnesses to appear, but rather saying that we will have to hear from these witnesses at some point.

No proposal has been made as to the order of witnesses.

Hon. Claude Carignan: I'm more comfortable if the discussions are done that way. However, we'll have to think about interspersing witnesses who were affected by the events.

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

Mr. Harder, you have the floor.

[*English*]

Hon. Peter Harder: I have some quick points.

First of all, I think the witnesses we're hoping to call are for our baseline, foundational understanding.

Second, in the hopes that we can bridge the difference here, can we at least start with two sessions of three hours and then determine, at the end of that, whether we need more? My fear is that we're being too prescriptive at the start. Let's open it up, and in good faith advance. If we need to call witnesses back for an additional period of time, we should do so. But we're fighting over whether or not to get started, and I think we should start.

[*Translation*]

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

Then, it will be Mr. Motz's turn.

[*English*]

The Joint Chair (Mr. Matthew Green): I would suggest, with respect to my colleague from the Senate, that there are some very logical pairings here. It would appear to me that the Department of Public Safety and the Department of Justice would make for a good theme day. It would appear to me that the Department of Finance and FINTRAC would make for a good theme day, and the RCMP, CSIS and CBSA would make for a third good theme day. That was the rationale. It was in keeping with the line that it was baseline. I just don't want to be in a scenario where we have a mishmash of guests who aren't necessarily in keeping with appropriate themes. It

wasn't to be obstructionist, but just to provide logic to the order and the work plan.

Thank you.

[*Translation*]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, you have the floor.

[*English*]

Mr. Glen Motz: Thank you, Chair.

We have potentially nine witnesses here, because we're looking at the Parliamentary Protective Service and the Sergeant-at-Arms being added to this list as well. I think it's necessary. I would agree with Mr. Green that there's no way we can possibly go through this.... Yes, Mr. Harder, we can ask witnesses to come back, but that never works as well as interviewing them as witnesses at the front end.

There may be things that we have to clarify down the road, but it would behoove us to ensure that we allow ourselves enough time. There is no race to get this done. We have to be prudent with our time, but let's do it right the first time. Let's allow for the amount of time we need. We allowed 1.5 hours for the four from before. There's no reason we can't pair a couple of these together and allow, with 1.5 hours, for probably nine to 12 hours. I would say we probably need 12 hours, four meetings, to go through just this list, along with some other ones that we should probably add to it that are missing from this. I would say there's no way we're ever going to get a chance....

As Senator Carignan mentioned before, you can't possibly get through witnesses in a rush like this. This speaks to Mr. Green's point, when we started our meeting, that from the public's perception of what we're doing, this can't be seen to be done in a way that is fast-tracked and non-transparent. We have to do our due diligence up front.

[*Translation*]

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

Mr. Virani, you have the floor.

Mr. Arif Virani: It's not necessary.

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

[*English*]

Mr. Larry Brock: I think we should treat this in much the same way we treated the issue regarding legal counsel. My proposal is that we adjourn debate on this, because we're putting the cart before the horse. We don't even understand the scope yet. We haven't decided on that. Why are we pigeonholing ourselves and determining what witnesses we're calling at this point and what time we're setting aside? Right now we're actually looking at 18-plus hours of witness testimony without even understanding the full scope of the study.

• (2055)

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): There's a motion to adjourn debate on the fifth motion and the amendment proposed by Mr. Green.

Do I have unanimous consent?

(Motion agreed to)

The Joint Co-Chair (Mr. Rhéal Fortin): Debate is adjourned on the fifth motion.

Are there any other motions?

[English]

Mr. Glen Motz: Mr. Chair?

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Yes, Mr. Motz?

[English]

Mr. Glen Motz: I would move the following motion:

That an Order do issue for all security assessments and legal opinions which the government relied upon in determining that

(a) the threshold of “threats to security of Canada”, as defined by section 2 of the Canadian Security Intelligence Service Act, required by section 16 of the Emergencies Act, had been met;

(b) the thresholds required

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, can you wait until we've received your motion before continuing?

[English]

Mr. Glen Motz: I have them here.

[Translation]

Ms. Rachel Bendayan: A point of order, Mr. Chair.

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, we're going to distribute the text of your motion.

[English]

Mr. Glen Motz: Chair, I'm introducing this, but we won't debate it until next meeting.

This is an introduction of this motion. We won't be debating it today.

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

Mr. Glen Motz: I'm giving notice. I'd like to read it into the record, if I may.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): You may read it, Mr. Motz.

[English]

Mr. Glen Motz: I'll continue:

(b) the thresholds required by paragraphs 3(a) or (b) of the Emergencies Act, concerning a “national emergency” had been met;

(c) the situation could not “be effectively dealt with under any other law of Canada”, as required by section 3 of the Emergencies Act;

(d) the Emergency Measures Regulations were compliant with the Canadian Charter of Rights and Freedoms, including the analysis relied upon by the Minister of Justice in discharging his responsibilities under section 4.1 of the Department of Justice Act; and

(e) the emergency economic measures order was compliant with the Canadian Charter of Rights and Freedoms, including the analysis relied upon by the Minister of Justice in discharging his responsibilities under section 4.1 of the Department of Justice Act,

provided that

(f) these documents shall be deposited with the Law Clerk and Parliamentary Counsel of the Senate, the Law Clerk and Parliamentary Counsel of the House of Commons and any legal counsel which the committee may appoint, in both official languages, within one month of the adoption of this order;

(g) a copy of the documents shall also be deposited with the law clerks and any legal counsel which the committee may appoint, in both official languages, within one month of the adoption of this order, with any proposed redaction of information which, in the government's opinion, could reasonably be expected to compromise national security or to reveal details of an ongoing criminal investigation, other than the existence of an investigation;

(h) the law clerks and any legal counsel which may be appointed by the committee shall promptly thereafter notify the co-chairs whether they are satisfied the requested documents were produced as ordered, and, if not, the co-chairs shall be instructed to present forthwith, on behalf of the committee, a report to each House outlining the material facts of the situation;

(i) the co-chairs shall cause the documents, as redacted pursuant to paragraph (g), to be distributed to the members of the committee and to be published on the committee's website forthwith upon receipt;

(j) the law clerks and any legal counsel which the committee may appoint shall discuss with the committee, at an in camera meeting, to be held within two weeks of the documents being distributed pursuant to paragraph (i), whether they agree with the redactions proposed by the government pursuant to paragraph (g), provided that, upon the request of the government when depositing the documents, the co-chairs shall be instructed to present as soon as possible, on behalf of the committee, a report to each House recommending that this meeting, or any subsequent meeting where the discussion is continued,

(i) shall, notwithstanding the order of the Senate adopted on March 3, 2022, not be subject to the provisions of paragraphs (a) to (c) of the order of the Senate adopted on February 10, 2022, respecting senators on standing joint committees,

(ii) shall, notwithstanding the order of the House of Commons adopted on March 2, 2022, not be subject to provisions of paragraph (r) of the order of the House of Commons adopted on November 25, 2021, and

(iii) may, if the committee decides, be held outside of either House's precincts, but within the National Capital Region, at a location acknowledged by the government to be appropriate for the discussion and presentation of highly classified information; and

(k) the committee may, after hearing from the law clerks and any legal counsel which the committee may appoint, pursuant to paragraph (j), accept the proposed redactions, or reject some or all of the proposed redactions and request the production of those unredacted documents in the manner to be determined by the committee.

Please don't ask me to repeat that.

Thank you, Chair.

• (2100)

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, if I understand correctly, we will debate your motion at the next meeting.

Mr. Clerk, are we going to receive the official French translation? The document has been translated, but this version isn't perfect. If possible, the document should be translated.

[English]

Mr. Glen Motz: My translation wasn't that good.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): The text will be translated into French by tomorrow night so that it can be considered before Tuesday's meeting.

Thank you, Mr. Clerk and Mr. Motz.

Does anyone have any other proposals? It's almost 9:00 p.m., but we have time to—

[English]

Mr. Arif Virani: I move to adjourn to go and watch soccer, Mr. Chair.

The Joint Clerk (Mr. Paul Cardegna): My colleague from the Senate and I were looking at everything that's been adopted, and we'd like to get some instruction from the committee as to what members want to do. As they may be aware, the next meeting of the committee will likely be next Tuesday, from 6:30 to 9:30, and we'd like to know if it is the will of the committee to continue doing committee business or if members want to invite the law clerks of the two chambers to appear. I'm not sure the law clerks will necessarily be ready, but we can put the request to them.

My colleague from the Senate and I would like to get instruction as to what the committee wishes to do with its next meeting five days from now.

Thank you.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Mr. Motz, you have the floor.

[English]

Mr. Glen Motz: I would suggest that's not a bad idea; however, given that this is time-sensitive and we want this information back within a month, we should probably deal with this motion for at least part of the meeting, and then we can probably bring a witness or whatever that looks like, potentially.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): First, we would consider Mr. Motz's motion at the next meeting, on Tuesday. Then the Senate and House of Commons law clerks could appear before the committee.

Are we in agreement on this?

Mr. Virani, you have the floor.

[English]

Mr. Arif Virani: I really don't want to belabour this, but the point of hearing from the law clerks is to help us determine the scope of what we're going to be looking at.

Let's hear former minister Beatty's testimony, as the principal drafter of the legislation. It's also informative to that scope. Once we determine the scope, that will help us address Mr. Motz's motion. A number of those things may fall by the wayside if the scope is narrower or larger, as the case may be.

Hon. Vernon White: Let's do the first meeting with the three witnesses.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): As I understand Mr. Virani's proposal, at the next committee meeting, we will hear from the two law clerks and Mr. Beatty. Mr. Motz's motion would be considered after that.

Does everyone agree with that?

[English]

Mr. Glen Motz: Yes, I agree, if they're available. If they're not available, then let's deal with this motion.

[Translation]

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

[English]

The Joint Clerk (Mr. Paul Cardegna): Thank you, Mr. Chair.

I was speaking with my colleague. To temper expectations around the committee table, with essentially fewer than five days before the next meeting, we may be able to get the law clerks in, but I'm not sure we'll be able to get any other witnesses. We can try. It is a short turnaround time, just so members understand. If we're not able to get Mr. Beatty, it may be because of the short turnaround time. We may need to invite him at a later date.

Thank you.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): Ms. Bendayan, you have the floor.

[English]

Ms. Rachel Bendayan: Mr. Chair, I am in agreement, and I understand the logistical constraints that the clerk just mentioned.

I don't see why we would be studying Mr. Motz's motion as a matter of priority should Mr. Beatty not be available for the second portion. There have been other motions circulated. Perhaps the committee would decide at that time which motion is most urgent to discuss in committee business. I'm not sure why we are deciding de facto today what committee business will comprise.

• (2105)

Mr. Larry Brock: It's just committee business generally.

[Translation]

The Joint Co-Chair (Mr. Rhéal Fortin): I see the custodian walking around the back. It's already 9:05 p.m., and we have staff working overtime. I just want to make sure we understand each other.

At the next meeting, we will hear from the two law clerks and Mr. Beatty, if he's available. Otherwise, he will be invited at a later date. Then we'll get into future business. At that point, we could determine which motion we want to study, either Mr. Motz's or another motion on which debate has been adjourned.

Does this work for everyone?

[*English*]

Everyone agrees.

The meeting is adjourned.

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