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



Special Joint Committee on the Declaration of Emergency

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• (1835)
[English]

The Joint Chair (Mr. Matthew Green (Hamilton Centre, NDP)): Good evening.

I'd like to call this meeting to order.

Welcome to meeting number 15 of the Special Joint Committee on the Declaration of Emergency, created pursuant to the order of the House on March 2, 2022, and of the Senate on March 3, 2022.

Today's meeting is taking place in a hybrid format pursuant to the House and Senate orders. Should any technical difficulties arise, please advise me, as we may need to suspend for a few minutes to ensure that all members are able to fully participate.

Any witnesses should be aware that translation is available through the globe icon at the bottom of their screen.

We should note that today is a shorter meeting that will last for two hours, with a hard stop on our deliberations at 8:30. It's a business meeting, so, at this point in time, I'd like to open the floor.

I recognize Ms. Bendayan.

Ms. Rachel Bendayan (Outremont, Lib.): Thank you, Mr. Chair.

Picking up on your introduction, I'd like to understand why today is a business meeting. The importance of hearing from witnesses was repeated again and again, and I don't believe it's a partisan issue. Everybody around this table agreed that we needed to get down to work.

The reality is that fully one-third of our meetings, six out of 15 meetings, were dedicated to committee business rather than getting down to the work that we were tasked with as a committee, and I find that very disappointing. I understand that a work plan was circulated today. I received it from the clerks. It is dated from May of the last session.

What is the current state of play for witnesses being scheduled? Would it be possible for the clerks to explain exactly why there were no witnesses available for what was scheduled as a three-hour witness meeting today?

The Joint Chair (Mr. Matthew Green): I'll take your first question, which was directed, I believe, to the joint chairs, who have the power to set the agenda for the meetings. As we discussed in previous meetings, there have been challenges in getting the prioritized witnesses concurrent with the judicial review. We simply weren't getting co-operation from those witnesses on the lists, and we were

having a difficult time finding prioritized witnesses for this evening's meeting.

On the second part, I'm happy to share that with the clerks, if they'd like to—

Ms. Rachel Bendayan: Before we get to the questions for the clerks, is it your understanding, Mr. Chair, that witnesses are not interested in coming to our committee, or are they unavailable due to the inquiry? I'd like to get a better sense.

The Joint Chair (Mr. Matthew Green): With specificity, with regard to the witness we had lined up for today, somebody who is involved with the police service and obviously, to my understanding, with the incidents that occurred had required the attendance of many within the law enforcement community at a funeral. We did not want to impose on that or perhaps suggest that this committee would take precedence over that, honouring the tragedy that occurred.

We took the best course of action, which was to deal with ensuring that over the next six weeks, we have, in coordination with the judicial review, a schedule that is fulsome and one that is dedicated to witness lists that ensure that we can get to the business at hand.

Of course, at the conclusion of those six weeks, the ratio that you suggested, the one-third of meetings being set aside for committee business, would change dramatically. It would be in the course of our business, and we would be able to respond to many of the revelations and different dynamics that have been, I think, uncovered through the course of judicial review and the civil proceedings.

As you know, it's been very difficult to get co-operative witnesses at this committee to provide us with substantive answers, documents and many things this committee has been trying to get. As these other processes play out, it's our intention, through no fault of the clerks, to get the kind of scheduling that will have prioritized witnesses, which would make sense for the work plan.

Ms. Rachel Bendayan: Okay. I certainly appreciate that the RCMP and police forces would be unavailable this week, but there are, respectfully, 10 pages of witnesses, so perhaps the clerks can let us know what the plan is going forward.

The Joint Chair (Mr. Matthew Green): That is the course of the business this evening, to set course on what the schedule is going to be on a prioritized basis for the next six weeks.

As it relates to the clerks, I'd like to note that Miriam, our usual clerk, is not here tonight. Mark is here, but the bulk of the planning work was between the two of them, so I don't necessarily want to put them on the spot. I'm happy to take responsibility as chair to let you know that we're having a business meeting tonight because that was the collective decision of the three chairs.

Ms. Rachel Bendayan: I understand, except that I think the clerk would have been in a position to answer my question with respect to the other witness list.

The Joint Chair (Mr. Matthew Green): Fair enough.

Maybe, Mark, you can comment.

The Joint Clerk of the Committee (Mr. Mark Palmer): For this evening there were a number of witnesses called, police and others. When there were declamations when they didn't come, we then went to the joint chairs to ask for a meeting. There was a meeting between the joint chairs, and that's when it was decided to have a business meeting tonight to go forward on that.

Ms. Rachel Bendayan: No other witnesses were called.

The Joint Clerk (Mr. Mark Palmer): There were a number of witnesses called. There was one confirmed for this evening, Mr. Bordeleau, but the decision was made that one witness wouldn't have stood alone. It was the decision of the joint chairs to cancel that witness and then to have a business meeting.

• (1840)

The Acting Joint Chair (Mr. Matthew Green): Ms. Bendayan, are there any other questions?

Ms. Rachel Bendayan: Going forward I certainly hope that when the committee decides it will hear from a certain witness the following week, if there are extraneous circumstances we would automatically go to this very long witness list and see who could come in order to maximize our time here. It seems to me that we have limited ourselves to a very small number of witnesses for tonight and here we are finding that we have two hours of committee business. I will let the chair proceed with this meeting, and I will reserve comment.

The Acting Joint Chair (Mr. Matthew Green): I appreciate your letting me proceed with the meeting. As the chair I will now do that.

We'll move on to Senator Harder.

Senator Harder, the floor is yours.

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

I just want to express my support for the decisions of the joint chair with respect to the agenda tonight. To facilitate a candid conversation, I would move that for the purpose of discussing witnesses and the committee's work plan, we move in camera.

The Acting Joint Chair (Mr. Matthew Green): You've heard the motion put on the floor to move in camera. Is there any debate on the motion?

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin (Rivière-du-Nord, BQ)): Might I suggest that we debate the motions before we go in camera?

[*English*]

The Acting Joint Chair (Mr. Matthew Green): It's a non-debatable motion. I apologize.

[*Translation*]

Hon. Peter Harder: My motion only concerns discussions about the work plan, and not the motions themselves.

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

I thought you wanted to move in camera right away.

[*English*]

The Acting Joint Chair (Mr. Matthew Green): I'm sorry, I did miss that, as I was seeking—

Hon. Peter Harder: My motion references the discussion on the work plan and the witness list. It's not with respect to the motions Mr. Fortin has brought forward.

The Acting Joint Chair (Mr. Matthew Green): So that I'm clear and nobody thinks there are any shenanigans going on, are you moving to go in camera at this moment?

Hon. Peter Harder: No. That will be when we get to the point of the agenda where we deal with the witness list and the work plan.

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

We still have motions. We will now give the floor to Mr. Fortin.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): All right, Mr. Green.

[*English*]

Ms. Rachel Bendayan: I have a point of order. Mr. Chair. I thought my intervention was to move that we discuss the work plan, and you said that—

The Acting Joint Chair (Mr. Matthew Green): You didn't move that motion accordingly. You made an intervention and you shared your opinion with the committee. The committee heard your opinion and we moved to—

Ms. Rachel Bendayan: You indicated that the purpose of this meeting was to discuss the work plan, and now—

The Acting Joint Chair (Mr. Matthew Green): It was a business meeting, as identified on the agenda. If there's any confusion around the notice of agenda I would just ask you to reflect back on that notice. We had Senator Harder's intervention, and now we have Mr. Fortin.

Sir, the floor is yours.

[*Translation*]

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

I tabled two notices of motion, which were distributed this week and which all members received in both official languages.

I'll quickly read the first motion about the redacted documents:

WHEREAS, many of the documents produced in response to the motion adopted on May 31, 2022, for the production of all security assessments and legal opinions which the government relied upon to justify the declaration of emergency on February 15, 2022, have been extensively redacted;

IT IS AGREED that each department, person, and/or agency that produced documents with redacted portions be required to provide the Committee with an unredacted version of those documents, or an explanation of the grounds for each redaction, within 10 days of the adoption of this motion.

I can't see the point of discussing it any further. The motion speaks for itself. I believe it's important for us to have complete documents. If that's not possible, then I'd like to know why.

[English]

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

Senator Harder.

Hon. Peter Harder: Thank you, Chair, and thank you, Mr. Fortin.

My view on this motion is I'm not opposed to it, but I think we should be realistic as to what our expectations ought to be. I think it is unusual and perhaps a step too far to ask officials to come with unredacted documents. Those documents are by definition secure and classified. I have no objection to having them come and speak to the redaction, but I can't imagine that they would come and table unredacted documents, and I doubt that they would be coming here to say, "We made a mistake with respect to the redactions and are prepared to provide greater unredaction."

I'm not opposed to the motion. I just want us not to build up expectations in our minds or anybody else's that there wasn't due consideration given by officials to the redaction process.

• (1845)

The Joint Chair (Mr. Matthew Green): Mr. Motz, the floor is yours.

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

I, too, support the motion and its intent.

For those of you who have ever been in a situation in a court where there are redacted documents, there's generally always the expectation that the explanation for those redactions is included in the actual redaction. There is usually a table that says, "It may have been redacted for reason A," and reason A is laid out in another document, a piece of paper, which says it's because of whatever source information, from my experience, or whatever it might be.

It's reasonable to have a motion like this, in those cases where redactions are done, in order to provide an explanation as to why they were redacted, and the grounds for them. As Senator Harder said, we can certainly ask for unredacted documents. That's certainly the expectation this committee had, but we understand there might be some limitations there.

The Joint Chair (Mr. Matthew Green): We have a motion on the floor. Is there any other discussion on the motion?

At this time, then, I'd like to move to the vote.

We can test the floor and see if we have unanimous consent.

Mr. Arif Virani (Parkdale—High Park, Lib.): Mr. Chair, it's Arif Virani here. Could I speak to the...? Can you hear me?

The Joint Chair (Mr. Matthew Green): Yes, we can hear you.

Mr. Arif Virani: With respect to this point on Monsieur Fortin's motion, I just heard the intervention from Senator Harder. I would indicate that if people are to be arriving and explaining the redactions they've made, that's one issue, but to arrive with unredacted portions being provided to the committee is not something I would deem to be suitable or advisable; rather, it's just having the person attending.

I would move an amendment to the motion, to read, "that each department, person and/or agency that produced documents with redacted portions be required to appear before the committee and provide an explanation of the grounds for each redaction".

I am removing only the words "with an unredacted version of those documents".

The Joint Chair (Mr. Matthew Green): On the amendment, we have Mr. Fortin.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): With respect, Mr. Chair, even though the point made by our colleague Mr. Virani is a good one, I don't think his amendment would accomplish anything. In fact, the motion requests that the documents be produced unredacted or that the reasons for the redaction be provided.

And it would still remain possible for a witness to produce unredacted documents. A witness could just decide to remove the redaction, making it no longer necessary to give an explanation. My motion therefore strikes me as perfectly correct as is. I agree with Senator Harder. I'd be surprised if any witnesses were to come and apologize and say they had made a mistake. It could happen, but I would be astonished if it did.

If it did, all we would get would be information about why there was a redaction. With respect, I'd prefer to see the rationale provided in writing, as indicated in the motion. People could then come and testify if they wished. I have no objection to that. It might even be useful to hear their explanations. However, suggesting that they come and testify about the redaction could be a lengthy and tedious process. It could easily require an evening or two, and getting an explanation in writing would be much easier and faster.

[English]

The Joint Chair (Mr. Matthew Green): Are there any other interventions on the amendment?

Mr. Arif Virani: Can I speak to it one more time, Mr. Chair?

The Joint Chair (Mr. Matthew Green): You sure can.

Mr. Arif Virani: Thank you very much.

The other point I would make is that in response to a point raised by Mr. Motz, and it's a fair point, when documents are provided, there's an indication of a type of privilege. In court you'd often see solicitor-client privilege. It's just indicated that the portion that is blacked out is under solicitor-client privilege. The text behind the redaction is not provided along with the assertion of the privilege. It's simply the assertion of the privilege. That's the first point.

I'd also like to speak to the point that I think, given everything that is going on, it's really incumbent upon us to be moving as expeditiously as possible with hearing witnesses. I'm not sure if this is the best-suited motion to be addressing the redactions, which have been done for what I presume are very valid and legitimate reasons. That actually detracts from the important work of this committee, which many of us are eager to get on with.

• (1850)

The Joint Chair (Mr. Matthew Green): On a technical note, Mr. Virani, it doesn't appear that your headset is connected. It's creating an issue for translation and audio. Can you please ensure that you've selected your headset within the Zoom settings?

Mr. Arif Virani: Is this better? I apologize, Mr. Chair.

Is that a bit better for the translation and everyone in the room?

The Joint Chair (Mr. Matthew Green): Yes. Could you please repeat the wording of your amendment?

Mr. Arif Virani: The wording of the amendment would simply be to remove the words in the second paragraph, which commences with "It is agreed". I would be removing portions of the second line in that second paragraph, so it says, "be required to appear before the committee and provide an explanation of the grounds for each redaction". Also, I believe 10 days may be a bit onerous. I would suggest that it be switched to three days from the adoption.

The Joint Chair (Mr. Matthew Green): If I could, respectfully, I asked you to reread the motion that we've already debated, and you're now in on a second intervention. You're actually amending your amendment at this point. The amendment that's on the floor stands at 10 days, not 30 days. That's the debate we're on right now.

Mr. Arif Virani: Fair enough, Mr. Chair—

The Joint Chair (Mr. Matthew Green): You can't just change it on the fly in a second intervention.

We've now heard you restate that amendment. That amendment is on the floor. Do we have any other discussion on that motion?

That being said, we will go to a vote.

Mr. Yasir Naqvi (Ottawa Centre, Lib.): Mr. Chair, can I ask for a clarification?

The Joint Chair (Mr. Matthew Green): We're in the middle of a vote. What is your clarification?

Mr. Arif Virani: I believe it is in order for someone to move a subamendment to my amendment. I believe I can move that myself or another person on the committee can move that, Mr. Chair.

The Joint Chair (Mr. Matthew Green): No, you can't.

Mr. Yasir Naqvi: My clarification is that right now, we are voting on the amendment that's proposed by Mr. Virani.

The Joint Chair (Mr. Matthew Green): It's the first one, which he was asked to restate. That's correct.

Mr. Yasir Naqvi: Thank you.

The Joint Chair (Mr. Matthew Green): That is on the floor. We are now in the process of a vote.

Thank you.

Mr. Arif Virani: On a point of order, Mr. Chair, if there's continued debate on a motion—

The Joint Chair (Mr. Matthew Green): I'm sorry. It's in a non-debatable situation right now because the vote has been invoked. We are now in the process of voting. It's non-debatable.

Mr. Arif Virani: I actually don't think that's correct, Mr. Chair.

The Joint Chair (Mr. Matthew Green): That you can interrupt a vote...? Are you challenging the chair at this moment?

Mr. Arif Virani: Yes, because we're in the process of debating. I was restating the suggested amendment. You said I couldn't amend my own amendment, and then one of my colleagues tried to take the floor before you called the vote.

The Joint Chair (Mr. Matthew Green): That's not what happened. No.

Mr. Arif Virani: I believe that's what just happened, sir.

The Joint Chair (Mr. Matthew Green): Well, I believe differently.

Mr. Arif Virani: I'm challenging your decision, then, because you told—

The Joint Chair (Mr. Matthew Green): Okay. There's a vote now to challenge the chair. Let's do that. We'll challenge the decision on that. We can take that vote accordingly, and then we can move on.

The Joint Clerk (Mr. Mark Palmer): The decision of the chair is to proceed to the vote, so the question is, shall the ruling of the chair be sustained?

(Ruling of the chair sustained: yeas 8; nays 3)

The Joint Chair (Mr. Matthew Green): We will now proceed with the vote.

• (1855)

The Joint Clerk (Mr. Mark Palmer): Just to clarify, now we're voting on Mr. Virani's amendment to the motion.

Ms. Rachel Bendayan: Can you read out the amendment, please, Mr. Clerk?

The Joint Clerk (Mr. Mark Palmer): In the second line of the motion—the paragraph that begins with, "It is agreed"—we would be removing "provide the committee with an unredacted version of the documents" and adding instead "appear".

I want to make sure that's correct.

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

(Amendment agreed to: yeas 6; nays 5)

The Joint Chair (Mr. Matthew Green): We will now proceed to debate on the main motion as amended.

Mr. Naqvi, the floor is yours.

Mr. Yasir Naqvi: Mr. Chair, I would like to move an amendment to the amended motion.

I move that we change it from "within 10 days" to "within 30 days" of the adoption of this motion.

The Joint Chair (Mr. Matthew Green): You've heard the amendment as presented by Mr. Naqvi.

Is there any debate on the amendment?

Go ahead, Monsieur Fortin.

[*Translation*]

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

I understand the principle of allowing people some time if we asked them to remove the redactions or explain each one in writing, but I don't understand the idea of allowing 30 days before appearing.

If the proposal that I think is being put forward by my Liberal Party colleagues, namely not to request unredacted documents but simply ask witnesses to come here to explain reasons for redactions, then I can't see why that should take 30 days. I feel that our work has been held up long enough. We've been having trouble getting witnesses, for all kinds of reasons, including the fact that many of them are currently appearing before the emergency commission presided by Justice Rouleau, and that has been slowing things down.

In short, this redaction issue could be dealt with as a priority, perhaps next week or the week after that. I think that allowing 30 days would be inappropriate and delay things unnecessarily.

[*English*]

The Joint Chair (Mr. Matthew Green): We have on the speakers list Senator Harder followed by Ms. Bendayan.

Senator Harder, the floor is yours.

Hon. Peter Harder: Thank you, Chair.

The work that we're asking to come before this committee has already been done by virtue of the redaction. I don't see why 10 days are overly burdensome, because the work has been done. I hope there has been a thought process that can be revealed to us. If, for some reason, we find out that they need a couple of extra days, we can deal with that, but I'm a little reluctant to give 30 days and hear that on day 29.

I don't think the amendment's necessary, frankly.

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

Ms. Bendayan, the floor is yours.

[*Translation*]

Ms. Rachel Bendayan: Thank you.

In response to my colleague, I agree that 30 days is perhaps rather long, in view of the amendment we've just adopted. However, I think we could agree on 15 or 20 days, which is at least a little more than 10 days, simply because we're talking about thousands of documents. They have to be examined and contain the requested information.

I have something else to propose, because, to be honest, the amendment that was read is not altogether clear. I thought we had agreed here, only a few minutes ago, to what you wanted, which is

basically information in writing without the need to have witnesses appear.

Perhaps we could agree that it could be done in writing and sent to the committee. The reasons for the redactions could be explained very briefly. I don't know whether you would agree with 15 days rather than 10 days. If so, I believe we could arrive at a solution.

● (1900)

[*English*]

The Joint Chair (Mr. Matthew Green): Perhaps I could make a procedural note. What you've suggested is a subamendment on an amendment. That would require Mr. Naqvi's withdrawing his amendment, with the unanimous consent of this committee, in order to consider yours.

Is your understanding the same?

Mr. Yasir Naqvi: Before I consider doing that, I just want to make one point.

We're talking about a lot of documents, with perhaps—

The Joint Chair (Mr. Matthew Green): This is a procedural point that I'm making. You're entering into debate.

My question to you is this: Do you want to withdraw that? If not, I'll go to Mr. Fortin and then come back to you for the debate.

Mr. Yasir Naqvi: You can go to Mr. Fortin and then come back to me.

The Joint Chair (Mr. Matthew Green): Mr. Fortin, the floor is yours.

[*Translation*]

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

I'm prepared to agree to Ms. Bendayan's request if we have the explanations in writing. She asked that a 15 day period be allowed, and I can live with that.

According to the amendment we've just adopted, they are going to come and testify. I don't understand why we would give them them 30 days, since they can testify right now. We adopted an amendment on that point.

If we want to move a new amendment in which we request explanations in writing, then I think we could agree on 15 days.

[*English*]

The Joint Chair (Mr. Matthew Green): By my account, Mr. Naqvi, you had indicated that you were on the speakers list. If you would like to remain on the speakers list, the floor is yours. If not, I'll proceed to Ms. Bendayan.

Mr. Yasir Naqvi: Thank you.

The point I want to make is that first of all, the motion says "within" 30 days. It does not say "after" 30 days. It gives us the latitude, as the motion reads at this moment, to be able to schedule individuals to appear between now and 30 days and explain the redaction.

We have seen the challenges associated with scheduling people to come before this committee. Giving this a time frame will help our clerks get the right people in front of the committee. That's number one.

Number two, if you stick with the 10 days as has been proposed, for example, that's probably just one committee, by my calculation, that would entail requiring people to come. Right there, I think we are setting ourselves up for failure in terms of getting people to appear and explain those redactions.

My suggestion was of a more practical nature. If folks feel more comfortable with 15 days, and they think we can get the work done with the appearing part, with 15 days for just the documents being submitted, then I can move that subamendment too, if it's agreeable to folks.

The Joint Chair (Mr. Matthew Green): You have an amendment on the floor. I'm just going to recap so we're all clear.

The reference to appearances was not limited to being within 10 days. What was within 10 days was the explanation for the redactions. As we are getting into amendments and subamendments on subamendments, I just want to make sure we're not losing what's before us here.

To stay in process, Mr. Naqvi, I will ask you whether you are withdrawing your amendment.

Mr. Yasir Naqvi: I'm willing to withdraw it and to suggest another subamendment that takes into account what Mr. Fortin was suggesting.

The Joint Chair (Mr. Matthew Green): You can withdraw—

Mr. Arif Virani: My hand is raised, Mr. Chair.

The Joint Chair (Mr. Matthew Green): There is a speakers list, Mr. Virani. You are on it. Thank you.

Mr. Naqvi, are you withdrawing your amendment so that we can proceed? You can't do a conditional withdrawal. You just have to withdraw your amendment and then we'll discuss it.

I appreciate what you're trying to do, but procedurally—

Mr. Yasir Naqvi: Well, can I hear the views of others before I say yes?

The Joint Chair (Mr. Matthew Green): That's if they want to give you their views, or if we just want to move on—

Mr. Glen Motz: I just want to check [*Inaudible—Editor*].

The Joint Chair (Mr. Matthew Green): Are there any other people on the speakers list?

Mr. Yasir Naqvi: We could also take a little break and just hash it out. Do you want to do that? We could do that.

• (1905)

The Joint Chair (Mr. Matthew Green): Okay.

Let's do a five-minute recess so we can hash it out.

• (1905)

(Pause)

• (1905)

The Joint Chair (Mr. Matthew Green): I call the meeting back to order.

Mr. Naqvi, the floor is yours, sir.

Mr. Yasir Naqvi: Thank you, Chair.

I will withdraw my amendment saying “within 30 days”. I think you will find unanimous consent to the following wording in its entirety. The second paragraph would read:

It is agreed that each department, person and/or agency that produced documents with redacted portions be required to provide the committee with an explanation of the grounds for each redaction in writing within 15 days.

The Joint Chair (Mr. Matthew Green): Just looking around the table, I will take that. We have unanimous consent on that amendment to the motion.

(Amendment agreed to)

The Joint Chair (Mr. Matthew Green): We are now back to the main body of the agenda, which is committee business. It is appropriate for you to move a motion at this time, if you see fit, sir.

The floor is yours.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Mr. Chair, am I to consider that the motion has been adopted?

We haven't voted yet on the motion as amended by Mr. Naqvi.

[*English*]

The Joint Chair (Mr. Matthew Green): That was unanimous consent.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): There was unanimous consent.

You're right. I apologize.

[*English*]

The Joint Chair (Mr. Matthew Green): He read the whole paragraph. Is that correct or not?

• (1910)

Mr. Yasir Naqvi: Yes. I read the amended version [*Inaudible—Editor*]

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

I certainly don't mean to make your life difficult, and if you recognize Mr. Fortin first, that is fine, but if we are moving back to the general list, Mr. Fortin indicated he still had the floor to move another motion after a vote.

The Joint Chair (Mr. Matthew Green): Mr. Fortin had an intervention. He caught my attention. We exchanged words; therefore, he had the floor.

After I'm in a conversation with somebody who has the floor, I take a scan around the room to see whose hands are up. I did recognize your hand being up after I was already engaged with Mr. Fortin. I was explaining to him that we were in the main part of the committee business. Understanding, quite rightly, that the amendment had been withdrawn and redrafted through unanimous consent, we are now on the body of the main motion.

Is that correct?

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Am I to understand that the motion has been unanimously adopted, or do we call a vote?

I have another motion to propose, Mr. Chair.

[English]

The Joint Chair (Mr. Matthew Green): I want to make this very clear. When things get complicated like this, it's my role as the chair to ensure that there is procedural fairness. Given that there has been unreadiness around the nature of the unanimous consent on the amendment, we do have procedurally to go back to the main motion as amended for consideration, debate or vote.

At this time, I will test the room to see if we have unanimous consent to the main motion as amended.

Some hon. members: Agreed.

(Motion agreed to [See Minutes of Proceedings])

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Now I have a second motion to propose.

May I move it, Mr. Chair?

[English]

The Joint Chair (Mr. Matthew Green): That one was kind of a draw. I'm not going to lie. You both put your hands up at the same time.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): Mr. Chair, I had the floor to move my two motions. When I requested it earlier, it was to move my two motions. I did so for the first, but I still have the second one to move.

[English]

The Joint Chair (Mr. Matthew Green): Mr. Fortin, procedurally, you had the floor in the moment prior to our acknowledging the body of the main motion. That's what happened.

Once the main motion has passed, we don't keep a speakers list from previous agenda items. The floor is then open for consideration of committee.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): I understand, Mr. Chair, but as I was saying, it's when I asked to have the floor, you will no doubt recall that Senator Harder announced that it would be useful to continue the meeting in camera to discuss the work plan, and

then we agreed that before discussing this matter in camera, I had two motions to propose.

Moreover, I began by saying that I was going to start by moving the first. With respect, the logical thing to do would be for me to move the second one now.

[English]

The Joint Chair (Mr. Matthew Green): Just so that we're clear, there was not a concession that your motions would be dealt with consecutively. There is a time in an agenda for motions. All members have an equal right to present motions. That is part of a business meeting.

I'm left with a bit of a situation recognizing and making sure that members of this committee are duly recognized.

[Translation]

The Joint Chair (Mr. Rhéal Fortin): It's your decision, Mr. Chair.

I'll abide by your decision, but without wishing to repeat myself unnecessarily, I had two motions to propose before we were to go in camera.

[English]

The Joint Chair (Mr. Matthew Green): I recognize that, but it doesn't mean you reserve the right to move them in a consecutive way. Given the nature and tone of this meeting, I think, procedurally, it would be fair if I turned to Ms. Bendayan to see what she has for this committee's business.

[Translation]

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

To follow up on what I said at the beginning of the meeting, I would like to propose something and I will do so by moving a motion, if you will permit, Mr. Chair.

I suggest that we discuss the list of witnesses now, along with the work plan for the coming weeks.

I understand that Senator Harder had moved a motion for the meeting to continue in camera as soon we address the matter of the witnesses. However, I would like to begin the discussion about the witnesses right now, in view of the importance of getting on with our work.

[English]

The Joint Chair (Mr. Matthew Green): We agreed that we would deal with the scheduling portion after we dealt with the substantive motions, so I would rule that motion out of order. It's dilatory, given that he's already presented that motion and we agreed that it would be the case.

Ms. Rachel Bendayan: Who agreed, when you say "we" agreed?

● (1915)

The Joint Chair (Mr. Matthew Green): I agreed in a ruling that we would move forward with the motions.

Ms. Rachel Bendayan: Thank you. It was your decision, Mr. Chair.

The Joint Chair (Mr. Matthew Green): It was the decision of the committee. Nobody objected to it.

With that being said, Mr. Fortin, the floor is yours.

[*Translation*]

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

I'll be brief. My comments are about the second motion that was sent to all members this week. I'll read the motion:

WHEREAS the Honourable Paul S. Rouleau is currently presiding over the public inquiry into the declaration of emergency issued in 2022 (Rouleau Commission), pursuant to the Order in Council of April 25, 2022, which was adopted to meet the provisions of section 63 of the Emergencies Act;

WHEREAS, the Commission is scheduled to sit and hear witnesses from October 13, 2022, through November 25, 2022;

WHEREAS, these hearings are public;

WHEREAS, the evidence and documents produced before the Commission are of great interest to the members of the Joint Committee and may have a significant impact on the work of the Joint Committee, including the summoning of witnesses;

IT IS AGREED that an analyst be assigned to the work of the Joint Committee to monitor the work of the Rouleau Commission and report back to the Committee with a summary of each day's work, including the names of the witnesses heard and a brief summary of the information provided by the witnesses and the documents produced.

I won't read the motion again, because I believe it's pretty complete. This commission has been conducting its work on the same events that are the subject of our inquiry. It strikes me as rather inane, if I may say so, not to take testimony before the commission into consideration. Just as the information we receive in our joint committee work might be of interest to the Rouleau commission, the members of our committee might be interested in the information and testimony heard by the Rouleau commission.

If we are to do our job effectively, I think it's essential for us to monitor the commission's work. I would further suggest that this monitoring process be carried out by an analyst, because each of us might track their work and remember only those parts of it that suit our respective theories of what went wrong, thus leading us to spend a long time arguing over our differences of opinion.

With someone neutral to do this work, however, such as an analyst with no particular axe to grind, they would simply listen and report objectively on what is being said before the Rouleau commission, thereby saving us a lot of time. We could then decide whether or not to use that testimony and the documents produced. If required, we could invite these witnesses to come and repeat to us what was said at the Rouleau commission or, if we had additional questions, request further details.

Once again, we can't ignore what's happening at the Rouleau commission if we want to do our work properly.

[*English*]

The Joint Chair (Mr. Matthew Green): I have Mr. Motz, and I'm going to put myself on the list after that.

Senator Boniface, after Mr. Motz I'd like you to take the chair.

Mr. Motz, the floor is yours.

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

I appreciate the intent of the motion, and I support its intent. The only concern I might have is the capacity of the analysts. We don't run the Library of Parliament. We don't manage their analysts, but we have given ourselves the ability to retain counsel, should we wish, or to retain some outside capacity, and I think that is something you should consider as the chair.

I agree with the intent of the motion. I think we need to have that data. I don't know if we need to have it daily, but I think it should be reported to the committee on a regular basis, maybe weekly. We need to have the capacity for someone to do it and do it well. I don't know whether the analysts have that capacity, and I don't think we should burden them with that side of it as well.

That's my intervention at this time. If we have to move an amendment, I will do so after some more interventions.

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

Senator Boniface, could I pass the floor to you to chair?

The Joint Chair (Hon. Gwen Boniface (Senator, Ontario, ISG)): Mr. Green, the floor is yours.

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

I would concur in the spirit that I believe we need a mechanism in place that would receive the substantive information documents, evidentiary proceedings not just of the commission, but also, in my opinion, of some of the civil proceedings to help us get that greater disclosure that we have been unable to have provided to this committee by the government.

However, I don't think it is feasible to have staff do daily reviews of the proceedings. I have tried. These are nine hours a day on the inquiry, with lots of information, and I just don't know that it's feasible to have daily reports on witnesses and summaries to that effect.

However, I think for the documents and evidence that are presented there could be a process, whether it be weekly or whatever would seem most feasible, to allow us to get that information to be part of our reports and part of our summaries.

Maybe there's a point in time in this committee that we set aside specifically to look at the findings of that inquiry, because I think it's safe to say that we are not likely to be wrapped up before that happens, given our scheduling challenges here.

With that being said, I personally can't support this as it's presented, just given some of the institutional challenges.

I will make one more note here that I have been informed that if we do want to go outside to get some kind of consultant's support on this, it is a much longer process and it's one most likely bound by the collective agreements of the Hill that would suggest that we would need to prove that's not something that could be done here. From a labour perspective, as a good New Democrat, I would flag that. I will not be in a process as a chair where I'm getting grieved by the committee.

With that being said, I will end my comments there and take the chair back.

We have Mr. Fortin.

• (1920)

[*Translation*]

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

[*English*]

Are you the chair now? You are. Okay.

[*Translation*]

I'd like to draw your attention to the fact that the motion does not mention reporting to our committee every day. The motion says, "report back to the Committee with a summary of each day's work".

[*English*]

A summary of each day's work, not a report to the committee every day.

[*Translation*]

It's a fine distinction, but an important one. I understand that the report can be prepared at the end of the week. I have no objection to that, of course. In my view, there should be a summary for each day. For example: today, Ms. Bendayan, Mr. Fortin, Mr. Green, and others were heard. It would keep us informed about what happened at the commission.

In any event, I understand what you're saying about the collective agreements and all that. That's one of the reasons why I was suggesting the task be assigned to an analyst. I have no objection to our hiring someone from outside, but the timing might be a problem for me. The commission is sitting until November 25, so if it takes a month to find someone, then of course we would be wasting our time and it would serve no purpose.

If we adopt a motion requesting analysts to do the work, and it turns out that they can't, owing to a staff shortage, then the analysts' supervisor could, I'm convinced, hire someone. I don't think the committee should be concerned about collective agreements because that would prevent us from ever getting anything done.

There are several collective agreements. It's not our role to deal with them. Our role is to take stock of the situation. With respect, I must say that it's fairly urgent. The commission has been sitting every day since October 13. We have already reached October 20, meaning that the commission has been under way for seven days. I believe we should reach a decision this evening. We should trust the analysts for this work. Once again, it's not a matter of reporting to us every day. We don't meet every day, in any event.

[*English*]

The Joint Chair (Mr. Matthew Green): I'm going to make another administrative comment, as we're now coming up on 7:30 p.m., to be expeditious with your statements if it's your intention that we get to scheduling. It's within all your rights to speak as long as you want, but just know that the more we're speaking to our motions, particularly to our own, the less time it gives us to get—

Mr. Rhéal Fortin: I'm done.

The Joint Chair (Mr. Matthew Green): Yes. We're going to have an hour left to deal with the scheduling.

So that we're clear, on the speakers list is Senator Carignan, followed by Mr. Virani, followed by Senator Harder.

Monsieur Carignan, the floor is yours.

[*Translation*]

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

I'd like to clarify something. I believe that the Rouleau commission testimony is being transcribed, and the transcripts are on the website. They automatically become part of the evidence we are receiving as a result of a motion we adopted. I'm trying to find the date it was adopted.

To summarize, the motion says that the committee considers the evidence, including the testimony and documents received by the standing committees of the House and the emergency commission are published on the website and are part of the evidence. That's an approximate summary of the motion.

Have I got that right?

My question is perhaps for the clerk.

Is it clear that everything heard by the Rouleau commission is part of the evidence before us and that we can use it?

I want to be sure that I've properly understood the meaning of the motions the committee adopted at the very outset. It might be useful to have a summary, or for someone to provide an explanation. If we had the transcripts, we would at least have something.

• (1925)

[*English*]

The Joint Chair (Mr. Matthew Green): Mr. Carignan, is it your request that we have the clerk comment on that, just for your assurance?

[*Translation*]

Hon. Claude Carignan: Yes, I want to be sure I have properly understood the meaning of the motion we adopted at the outset. I also want to make sure that this testimony is part of the evidence we have before us.

The Joint Clerk (Mr. Mark Palmer): Thank you, Senator Carignan.

The committee can use public information, which includes the evidence available to us from its deliberations.

Hon. Claude Carignan: So all of this testimony is not necessarily sent to us in bulk, as evidence, and we can use it.

Is that right?

The Joint Clerk (Mr. Mark Palmer): Yes that's correct.

Hon. Claude Carignan: We should perhaps move a motion to that effect.

Thank you.

[*English*]

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

We have Mr. Virani, followed by Mr. Harder.

Mr. Virani, the floor is yours.

Mr. Arif Virani: Thank you.

Just following up on what Senator Carignan was mentioning, it would seem to my mind that it makes the present motion somewhat redundant if the evidence is already effectively before the committee, based on what we passed at previous meetings. That means Mr. Fortin seems to be asking just for an analyst to be assigned to summarize that same evidence.

To that point, I would actually ask, through you, Mr. Chair, for the analysts' input, going back to what Mr. Motz raised, so they can provide us at this committee tonight a sense of their own where-withal to do this additional work.

I'm still curious as to whether an amendment may be proposed by Mr. Motz. Could we first hear from the analysts about their capacity to do exactly what is being asked? I'm sensitive to the point that was raised by Mr. Motz and others about their current workload.

Thank you.

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): Could the clerk read us the motion mentioned by Senator Carignan? I'm not sure I understood what was involved and I don't have the motion in front of me.

[*English*]

The Joint Chair (Mr. Matthew Green): I'm sorry. At this time, Mr. Virani has the floor.

I can come back to you, but he put a question specifically to the analysts. I would like for Mr. Virani to have that question answered. If there are further questions for the committee, we can address them at the appropriate time.

Colin, please.

Mr. Colin Sawatzky (Committee Researcher): We were aware of the motion and we have discussed it internally. As has been mentioned, it's mostly a question of resources. I guess the main point is that we aren't certain how long this would take us to get out there. Given that it's an ongoing process, the amount builds up. We are working on it; it's just that we can't give a very certain deadline at this point.

The Joint Chair (Mr. Matthew Green): As a chair's note, for the consideration of committee, there may be a possibility of our having the analysts report back with the feasibility. Otherwise, we are essentially debating something that we don't even quite know or fully understand whether we have the capacity for.

I'll just put that there for your consideration—it's not a motion—that they may be able to report back to this committee on the feasibility of this.

Just so I'm clear, Mr. Virani, is your intervention complete with that question?

Mr. Arif Virani: I don't find the answer to be as robust as I would have liked, perhaps, but I feel as if the analyst was being a bit diplomatic there. I know they are working pretty hard, all the time. We know that if there are nine hours of evidence in a day, that's a lot of evidence to go through.

Thank you for having my question answered, Mr. Chair.

• (1930)

The Joint Chair (Mr. Matthew Green): We will now proceed to Senator Harder, followed by Mr. Motz.

Senator Harder, the floor is yours.

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

I was going to propose that we adjourn this discussion and invite the analysts to consult as to whether or not it would be possible for an analyst to be dedicated to performing this task. I think it's an important piece.

When we have heard that, I would hope the analyst can speak to all of the joint chairs and come up with a solution that would enable the committee to receive a report on the work being done at the commission.

The Joint Chair (Mr. Matthew Green): Just so we're clear, adjournments on discussions are not debatable motions, procedurally, so we have a motion on the floor.

I'd like to test the committee—

Mr. Glen Motz: I'd like to speak to that, if I could.

The Joint Chair (Mr. Matthew Green): It's not debatable.

Mr. Glen Motz: I'm not really debating. I want to add to it that—

The Joint Chair (Mr. Matthew Green): You can add to it after it's passed or defeated. That would be the essence of “not debatable”.

I will test the committee's will to see whether we have the infinite wisdom, provided by the senator, to adjourn debate on this discussion.

Is there unanimous consent for that, or would you prefer to proceed to a recorded vote?

(Motion agreed to)

The Joint Chair (Mr. Matthew Green): We are still in the general business of considering your questions and comments.

Feel free, at this time, Mr. Motz, to make any...followed by Ms. Bendayan.

Mr. Motz, the floor is yours.

Mr. Glen Motz: Thank you.

I'll add to what Senator Harder proposed.

I'm not opposed to that, but I think I would have preferred a bit of a parameter around what we're asking the analyst to do. If our analyst goes back and has the conversation, it might be appropriate if we, as a committee, say.... We have eight, nine or 10 hours a day in commission hearings, and sometimes 400-plus pages and documents.

What is our expectation? The analysts have to know what we expect before they can give us an informed comment back. I was hoping we could give them that and say, "Listen, we don't have to have it the day of; it can be a week later", or whatever that looks like. I'm suggesting that if we have some of those parameters around what we expect the analysts to provide us, we're going to get a better, more fulsome response back, which may be more favourable to the committee. That's all.

The Joint Chair (Mr. Matthew Green): Thank you for that intervention—that comment on the proceedings of the previous undebatable motion.

They do have, at their disposal.... Just so we're clear, our analysts are here. They are privy to our discussions, and they understand the spirit and intent, I believe, of the discussions. They also have the ability to reference transcripts—as does the Library of Parliament—so they are able to come up with recommendations pursuant to the spirit of the motion at hand.

With that being said, are there any other motions in this...?

Oh, I'm sorry. We have Ms. Bendayan, then Senator Harder.

My apologies, Ms. Bendayan. The floor is yours.

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

I'd like to see clarification from the clerk, further to the exchange that occurred with Senator Carignan.

Senator Carignan was referring back to a motion adopted by this committee on September 22. I'll read the beginning, because it seems quite clear to me: "That the Committee deem the evidence, including testimony and documents, received by, and published on the websites of, [other] standing committees of the House of Commons and the Public Order Emergency Commission". It's the inquiry Senator Carignan was just asking about, in relation to the invocation of the Emergencies Act.

For me, the plain reading of the motion would indicate that the testimony heard every day, which Senator Carignan referred to, is indeed deemed part of our record.

Can you perhaps give us a bit more clarification?

The Joint Clerk (Mr. Mark Palmer): That is correct. I mispoke earlier. I reread the motion and agree that by that motion it would be deemed to us.

[*Translation*]

Ms. Rachel Bendayan: You can thank me later, Senator Carignan, if you feel the urge.

[*English*]

Thank you, Mr. Clerk. That is very helpful.

The Joint Chair (Mr. Matthew Green): We'll now have Senator Harder followed by Senator Carignan.

Hon. Peter Harder: In the event that anybody is still watching, I would propose that the committee move in camera for the purpose of discussing witnesses and the committee's work plan.

The Joint Chair (Mr. Matthew Green): Do we have unanimous consent? Are any opposed?

[*Translation*]

The Joint Chair (Mr. Rhéal Fortin): I understand, Mr. Chair, and I'm not saying it's a bad idea, but as a matter of principle, I'm going to oppose the idea of sitting in camera.

Our work should be as public as possible. With respect, I am unfortunately going to have to oppose Senator Harder's proposal.

• (1935)

[*English*]

The Joint Chair (Mr. Matthew Green): Would you be okay with this being passed on division, or...?

(Motion agreed to on division)

The Joint Chair (Mr. Matthew Green): This committee meeting will now go in camera. We're going to take a 10-minute break.

Mr. Dane Lloyd (Sturgeon River—Parkland, CPC): Point of clarification, Mr. Chair.

The Joint Chair (Mr. Matthew Green): You're going to be sent out a new link that will provide you with a secure Zoom connection to the committee meeting. We'll give you 10 minutes to receive that information, to log out and to log back on. I assure members that we will provide as much time and technical support as possible to make sure the transition is smooth.

This meeting is now suspended until we come back in camera.

[*Proceedings continue in camera*]

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