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# Standing Committee on Health

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Chair: Mr. Ron McKinnon





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• (1110)

[English]

**The Chair (Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.)):** I'd like to call this meeting to order.

Welcome, everybody, to meeting number 34 of the House of Commons Standing Committee on Health.

Pursuant to the order of reference of May 26, 2020, the committee is resuming its briefing on the Canadian response to the outbreak of the coronavirus.

We are meeting today for the purpose of debating the notices of motion in Mr. Jeneroux's name.

If a member wishes to intervene in debate, they should use the “raise hand” function. This will signal to the chair your interest to speak. In order to do so, you should click on “participants” at the bottom of the screen. When the list pops up, you will see, next to your name, that you can click “raise hand”.

We have completed one motion.

Mr. Jeneroux, I will give you the floor to move your next motion, please.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Thank you, Mr. Chair.

It's good to be back for another meeting here at HESA. This has to be the hardest-working committee we have out there, so I appreciate everybody taking time on a Monday to join us.

We have three more motions to go, Mr. Chair. I do want to bring the next motion forward. I'll read it here for you.

Pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 3, 2020 and that the documents be published publicly on the committee's website by Monday, August 10, 2020:

All documents, briefing notes, memorandums and emails to/from/between Health Canada, the Public Health Agency of Canada, and the Privy Council Office related to the issuance of Medical Device Establishment Licenses (MDELs) between March 1, 2020 and May 11, 2020; including all documents, briefing notes, memorandums and emails to/from/between Health Canada, the Public Health Agency of Canada, and the Privy Council Office related to the recall of N95/KN95 masks.

Mr. Chair, we're trying to get to the bottom of some of the discussion in the government's response. I think that all members of the committee are interested in getting those responses.

I'm wondering if you'd be amenable, Mr. Chair... I know that at the last meeting, we passed a motion that amended the date of Au-

gust 3 to August 31, and then we also amended the date August 10 to September 7. I'd certainly be willing, if it's appropriate, to amend these so they're consistent with the last motion. I'm not sure whether you need unanimous consent or whether you need another motion for that, but I do want to make you aware that we are certainly amenable on our side.

**The Chair:** I would ask you to make the change. We will consider it moved in that manner.

Maybe just reread the motion with dates as you now propose them. That would be helpful.

**Mr. Matt Jeneroux:** How about I read the first paragraph, Mr. Chair?

**The Chair:** Absolutely.

**Mr. Matt Jeneroux:** It's only impacting the first paragraph: “Pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by August 31, 2020 and that the documents be published on the committee's website by September 7, 2020”.

**The Chair:** Thank you.

It has been moved. Is there any discussion on this motion?

Mr. Fisher, please go ahead.

**Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.):** Thank you, Mr. Chair.

I just want to see what Mr. Jeneroux thinks of this. I think this motion is almost identical to a motion that was passed by OGGO. The documents are already being produced for August 10. I'm wondering if Mr. Jeneroux would consider withdrawing this motion because of this overlap.

I'll read this for the benefit of Matt here and the rest of the committee. The motion by Kelly Block passed in OGGO on June 5, as follows:

That, in the context of its study of the government's response to the COVID-19 Pandemic and pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 3, 2020 and that the documents be published publicly on the committee's website by Monday, August 10, 2020 and that departments tasked with gathering and releasing the following documents do their assessment and vetting as would be done through the access to information process...

5. All briefing notes, memorandums for information, memorandums for decision, and documents related to the Wednesday, March 18, 2020 Interim Order by the Minister of Health entitled “Interim Order Respecting the Importation and Sale of Medical Devices for use in Relation to COVID-19”;

6. All briefing notes, memorandums for information, memorandums for decision, and documents related to the Monday, March 30, 2020 Interim Order by the Minister of Health entitled "Interim Order Respecting Drugs, Medical Devices and Foods for a Special Dietary Purpose in Relation to COVID-19";

7. All briefing notes, memorandums for information, memorandums for decision, and documents related to the issuance of Medical Device Establishment Licenses (MDELs) between Sunday, March 1, 2020 and Monday, May 11, 2020;

8. All briefing notes, memorandums for information, memorandums for decision, and documents related to the issuance of Medical Device Licenses (MDLs) between Sunday, March 1, 2020 and Monday, May 11, 2020;

9. All briefing notes, memorandums for information, memorandums for decision, and documents related to the recall of N95/KN95 masks including documents pertaining to the Monday, May 11, 2020 MDEL Bulletin produced by the Medical Devices Compliance Program....

This passed unanimously at the OGGO committee. I'm sorry for reading it maybe a little too quickly and for the committee not having the benefit of seeing all the things that were moved, but it seems as though everything Mr. Jeneroux is seeking on behalf of this committee is in this motion, unless I'm missing something.

I'm wondering if perhaps taking the findings of OGGO, and maybe even putting them on the health committee's website by that particular date, might do the same thing that Mr. Jeneroux is seeking of this committee.

● (1115)

**The Chair:** Thank you, Mr. Fisher.

Mr. Jeneroux is not next to speak, but I will let him interject if he wishes to respond.

**Mr. Matt Jeneroux:** Thank you, Mr. Chair.

I appreciate Mr. Fisher's attempt to speed this up. I just want to point out that we have previously discussed the importance of our committee being separate from the OGGO committee. We don't control what the OGGO committee does, and they don't control what we do. Certainly, I think having more information from OGGO posted on our website would help, but at the end of the day, we want this to be as comprehensive a report as possible and not simply have a line saying, "Oh, by the way, go and look at the website regarding OGGO."

I think we agree on some of the wording there, perhaps, but I still think it's the due diligence of our committee to make sure we pass our own motions in this regard. We don't know what OGGO intends to do with the rest of their information or what type of report they will do. I appreciate the spirit of it all, but I think it's still incumbent upon our committee to pass our own motions here.

**The Chair:** Thank you, Mr. Jeneroux.

Mr. Kelloway, you're up next.

**Mr. Mike Kelloway (Cape Breton—Canso, Lib.):** Thank you, Mr. Chair.

I put up my hand prior to Darren speaking. It was with regard to a certain aspect of the motion, just to comment on the time change that Mr. Jeneroux put forward. I think it's spot on. It was something that I was going to highlight just in relation to the notices of motions that were given on June 12, with the request that documents be produced by August 3. That was about seven and a half weeks. I think pushing it back to August 31 and September 7 respectively is appropriate.

I'll chime in on this item as well in a few minutes.

**The Chair:** Thank you, Mr. Kelloway.

Mr. Davies, go ahead.

**Mr. Don Davies (Vancouver Kingsway, NDP):** Thank you.

My first question that I'd like to get Mr. Jeneroux's position on is this: Does he agree that the motion that Mr. Fisher read out covers the same material as is covered by his motion? If it does, then obviously the information is going to be gathered by the civil service, and perhaps we could just request that this information be sent to our committee at the same time as it's sent to OGGO, since it has already been gathered.

I'm curious to know if he thinks there's a difference in the information being sought, because that may make a difference.

● (1120)

**The Chair:** Thank you, Mr. Davies.

Mr. Jeneroux, please go ahead.

**Mr. Matt Jeneroux:** Thank you, Mr. Chair.

I anticipate that we're probably going to have a discussion about emails being included. Obviously, this motion includes the emails as part of that. I certainly still believe that the emails and as much information as possible are what we intend to gather, so I would point specifically to that part of the motion.

I'm a little nervous after the last committee meeting, with the discussion about ATIP versus the parliamentary counsel being able to produce documents, and would suggest again that the committee accordingly look to the Law Clerk and Parliamentary Counsel, based on the information they provided on our previous motion. Outside of emails, that would be the other skeptical point I have.

Certainly I'm not eager to put a huge burden on the public service, but if they're doing this work already with OGGO, then it should be simple. They should be able to provide a lot of that information to us.

Again, based on those two points, I think our motion is slightly different.

**The Chair:** Thank you, Mr. Jeneroux.

Mr. Fisher, go ahead.

**Mr. Darren Fisher:** Thank you, Mr. Chair.

I understand where MP Jeneroux is coming from, but I think it would be another task for public servants to collect all these documents, other than being given the opportunity to just find out what was presented to OGGO and put on the OGGO website. It's not a hill I want to die on here, but it does seem like a less efficient way to get the exact same documents. I do think there's value in allowing OGGO to do that and then finding out what is presented to OGGO. Mr. Davies asked if there were any gaps. I don't see any gaps. In fact, the motion that Ms. Block moved was so fulsome that I think it covers this and more.

I know it's not appropriate to move a motion to withdraw Mr. Jeneroux's motion. I would never do that, but perhaps we'll see where we go with this particular motion.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Fisher.

Mr. Kelloway, please go ahead.

**Mr. Mike Kelloway:** Thanks, Mr. Chair.

Just briefly, I mentioned at the last meeting that obviously I'm relatively new to politics, but I do think that in this case, when you look at OGGO.... I stand by what I said at the last meeting, that the words "transparency", "consistency" and "efficiency" are not mutually exclusive. I think in this case we would achieve the same results. That would be my two cents on it at the moment.

**The Chair:** Thank you, Mr. Kelloway.

I'm sorry. I was focused on a text here. Did you move a motion to amend?

**Mr. Darren Fisher:** Are you speaking to me, Mr. Chair?

**The Chair:** I missed part of what Mr. Kelloway said, so I was wondering if he made a motion.

Okay, I'm caught up now. Thank you.

Does anyone else wish to speak to this motion?

Mr. Fisher, please go ahead.

**Mr. Darren Fisher:** Moving on from seeking withdrawal—and Mr. Jeneroux predicted this would happen—I would move, as we've done at all the other committees and with all of our other motions here, to remove the emails and take away that onerous level of work from our public servants, who have served us so well during COVID-19.

I move that we do the same thing we've done in the past, with emails being removed from all of our motions, as they have been from all the committees.

**The Chair:** Thank you, Mr. Fisher.

Of course, we can only move to amend the current motion.

Is there any discussion on Mr. Fisher's amendment?

Mr. Davies, please go ahead.

• (1125)

**Mr. Don Davies:** Thank you, Mr. Chair.

I know I missed the riveting discussion at the last meeting over these issues, so I'll try to be succinct.

Committees have extensive powers of production for a reason. I've sat through a number of Parliaments and seen various governments approach to control committees. I know that the present Liberal government, since they won the election in 2015, has pledged on a number of occasions to restore the historic position of committees to fulfill our very important mandate to act and operate independently, and to be masters of our own business and affairs.

It would seem to me that if we start falling into the practice of always excluding emails from production, it would be completely, ridiculously and patently easy for any government to effectively avoid accountability to committees by simply putting all the infor-

mation that they want, that is sensitive, into email form. That's number one.

There is nothing...and it defeats the very purpose of the committee's power to produce and compel documents, just like we can compel and produce witnesses. I think we all, as committee members, regardless of political stripe, have to take our responsibility seriously with respect to these powers and not fall into a practice that effectively lets any government of any stripe avoid its transparency and accountability to committees. That's exactly what would happen if we let them go and not produce emails.

Number two, as I've said before, frankly, I think emails are among the easiest things to gather because there are search functions on computers. It's way easier to get emails by putting in key search words than it is to gather paper, which really does require sometimes a Herculean search process through Ottawa as a number of civil servants have to search files and desks, etc. So I don't buy the argument that emails are difficult to get.

Third, these motions we're dealing with here are dealing with targeted issues. This is not opening up the entire civil service to produce all their emails; it's about emails that are related to specific issues, the N95 mask issue and the medical devices. I can't imagine that there are thousands of these emails. We're talking about hundreds, or maybe dozens.

I'm going to speak in favour of this. I'm always going to speak in favour of transparency and accountability. I think the government—any government—has a valid point to be careful and vigilant to ensure that this very special process that committees have isn't abused and that it doesn't create true and authentic bureaucratic nightmares. But I don't see that in this particular case, so I'm going to speak in favour of this, and I hope all of my colleagues do. The fact that this information is being gathered, I think, speaks to Mr. Jeneroux's point that the government is already gathering most of this information.

Finally, we haven't yet spoken on redaction. I'm going to repeat now, and early, that I was extremely disappointed with the extensive redaction that occurred, by I don't know who, to documents that this committee had requested before. Frankly, it was insulting to committee members that we were denied the ability to see documents and to read them in their fulsome form.

There should be only three reasons for redaction: privacy, cabinet confidences and national security. The only person who should be doing the redaction is the law clerk, or perhaps the clerk of this committee. I'll foreshadow what I anticipate will be the next amendment by the government, which is to try to restrict the information to ATIP or something else that has many, many criteria to it that I'm not even sure about. However, I've done enough ATIPs in my time to know that you get documents that come back with more black than you have words in them, and that defeats the purpose of holding the government accountable as well.

I'm going to speak in favour of the motion as it's currently written, and I urge my colleagues to do so.

Thank you.

• (1130)

**The Chair:** Just to clarify, we're debating the amendment by Mr. Fisher to remove the emails, so if you're.... I take it from your discussion that you're opposed to this amendment.

**Mr. Don Davies:** Yes, you take it correctly.

Thank you, Mr. Chair.

**The Chair:** We go now to Mrs. Jansen.

Please go ahead.

**Mrs. Tamara Jansen (Cloverdale—Langley City, CPC):** As I said at the previous meeting, it's so important that we win back the trust of Canadians. I can tell you that I've been out in the community, and we've lost it. We've completely lost their trust, and when we decide that we're not going to allow emails, which everybody recognizes are good bits of information.... We need to have that kind of information to truly understand what happened, why science supposedly changed and so forth. The only way to do that is to have an honest opening of the books. Lay it all out there. Let people understand why the science changed. Let them see what happened. Why are we suddenly told we need to wear masks?

I'm just absolutely stunned at the anger in the community right now at people like us. We continue to not show truth. We continue to cover stuff up. If we cover it up and at the same time are destroying our economy, you can imagine that people are going to continue to be very upset. I'm begging you; we need to show that we're going to be fully transparent, as I understand was the obligation of this Liberal government, to become fully transparent. If we don't, we will lose the trust of Canadians, so I'm against this amendment.

**The Chair:** Thank you, Mrs. Jansen.

Dr. Powlowski, please go ahead.

**Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.):** Thank you.

First of all, let me say that I agree with a lot of what Mr. Davies said about transparency. Having worked a lot of years in a lot of developing countries, I certainly note that the world is inundated with Canadians who go to other countries to preach the importance of transparency and accountability; yet, you come back to Canada, and sometimes we don't seem to have the same enthusiasm for transparency and accountability in our own country. I fully appreciate and agree with the importance of transparency.

I am in favour, however, of the amended motion, which is to remove emails. I think it's because of the practicality. Certainly, the Department of Health is under immense pressure to do all kinds of things. I don't think there's ever been a time in our history when the department has been overworked like they are at the moment. There's just no end to the number of issues that they have to deal with. A lot of those things don't even come to our attention. There are things like ECMO. There are all kinds of medical issues and epidemiological issues that they're dealing with, and this, having to produce documents, takes them away from their other tasks.

Although I can appreciate that the number of documents, emails, may be limited, there are all kinds of motions. When you start adding them all up, it seems it's producing a lot of stuff. Emails, I think, too, may contain a lot of discussion about the provinces and

what they are doing. I think that, when you're communicating with other members of government, you want to be honest as to your appraisal of the situation, but in doing so, you may be saying things that other levels of government, like provinces, may not really appreciate in your candour. I think there is reason to want to be a little prudent in what is released.

I, too, am foreshadowing. I think there will be other amendments to this, but the email limitation seems, to me, a reasonable one.

**The Chair:** Thank you, Dr. Powlowski.

We go to Mr. Van Bynen now, please.

**Mr. Tony Van Bynen (Newmarket—Aurora, Lib.):** Thank you, Mr. Chair.

I agree, and I support the fact that we need to be seen to be transparent, but I do take issue with the statement that people have lost trust in their government. I make specific efforts to reach out to my constituents, and that's not what I'm hearing from my constituents. What I am hearing from my constituents is that they would like to have things go forward.

When it comes to the email issue, I think a number of those discussions would be covered by briefing notes and memoranda, and that would satisfy the information that's being sought as well.

I know that a statement was also made that it would be very easy to search your emails, but I think that in situations like this it's the text of the messages that would be the key item. You can't simply search by sender and receiver. I don't believe that any of this can be delegated to someone else. Back to one of the earlier points, we're taking people away from an important job, and that job is to deal with and to respond to what the community needs today.

I would be supportive of removing emails. Again, it's because I believe the briefing notes and the memoranda will satisfy the information that we're seeking, and it does not in any way infringe upon transparency. In fact, I think it's a matter that would undermine the trust of government to suggest there are things there that shouldn't be brought forward. I believe the information we need, the information we're seeking, is going to be available without including the emails, so I will be voting in support of that motion.

• (1135)

**The Chair:** Thank you, Mr. Van Bynen.

We go now to Mr. Kelloway, please.

**Mr. Mike Kelloway:** Thanks, Mr. Chair.

MP Van Bynen said a lot of what I was going to say around emails. Certainly there is a search function that would be able to bring up a lot of emails at one time, but, again, it's a matter of going through them, and it is the individual who sends or has received the email. You can't delegate that to someone else. I make that point.

Let's put it on the table. Everybody on this Zoom is for transparency; everyone is for accuracy, but it astonishes me to a degree: Can we not be efficient? Can we achieve both? Clearly, that's not the case, and we'll be voting on that. I think Canadians are focused on transparency and accuracy, but also efficiency, so I will be voting for the amendment, obviously, going forward.

**The Chair:** Thank you, Mr. Kelloway.

Mrs. Jansen, please.

**Mrs. Tamara Jansen:** I find it very interesting that Mr. Kelloway and Mr. Van Bynen suggest there's nothing in the emails to hide, and Mr. Powlowski says we might embarrass provinces by what's written in those emails. We're not about embarrassing people. We're not about trying to cover up for anybody. Especially with Dr. Powlowski's statement that there could be things in there that the provinces have made mistakes on, I think it's a very important thing to have those emails. If we want to protect Canadians going into the fall, going into the winter, we need to know what went right, and we need to know what went wrong.

I know that we all want to be transparent; we all want to be efficient. The way to do that is to allow these emails...especially with Dr. Powlowski's suggestion there are provinces that have made mistakes, and that will be evident in the emails.

**The Chair:** Thank you, Mrs. Jansen.

Is there any further discussion on this amendment?

Dr. Powlowski, I see that your hand is raised.

**Mr. Marcus Powlowski:** I feel compelled to say that I didn't necessarily say that the provinces made mistakes. I think the bureaucracy and people in the ministry ought to be open to discussing the management, and sometimes that may not be appreciated by other parties, like the provinces, the discussion of how they managed it. I didn't mean to say, and I don't think I said, that they necessarily made mistakes.

**The Chair:** Thank you, Dr. Powlowski.

Is there any further discussion on this amendment?

Ms. Sidhu, I see your hand up. Please go ahead.

**Ms. Sonia Sidhu (Brampton South, Lib.):** Thank you, Mr. Chair.

We want to note, too, that the purpose of the motion is to get a full picture of the situation, and we respect that, but the briefing notes and the memos would satisfy the reason. As you know, the volume of emails is particularly large for the time period, and, as Mr. Jeneroux said, we want to know as soon as possible. We want to know, too, and we want to balance the transparency. We want transparency, too.

I am in favour of removing emails, for privacy purposes. The main purpose of the motion is solved with briefing notes and the memos. What we want to know, we can get the answer to, and we can carry on as soon as possible. I think it's reasonable to ask to remove emails.

Thank you.

• (1140)

**The Chair:** Thank you, Ms. Sidhu.

Is there any other discussion on this amendment?

Monsieur Desilets, please go ahead.

[*Translation*]

**Mr. Luc Desilets (Rivière-des-Mille-Îles, BQ):** Thank you, Mr. Chair.

I sincerely apologize for earlier. I had some minor technical trouble.

Further to Mr. Fisher's amendment, I agree with removing the emails. We should move forward—

[*English*]

**Mr. Tony Van Bynen:** Mr. Chair, I'm sorry, but I'm getting both the English and the interpretation equally, and it's hard to hear.

**The Chair:** Thank you, Mr. Van Bynen.

Monsieur Desilets, could you check on the bottom of your screen to see that you are on the French channel?

[*Translation*]

**Mr. Luc Desilets:** I'm on the French channel.

[*English*]

**The Chair:** Okay. Try your intervention again, if you wouldn't mind.

[*Translation*]

**Mr. Luc Desilets:** All right.

I'll start over.

I think what Mr. Fisher is proposing has some merit. I completely agree—

[*English*]

**The Chair:** I'm sorry, Monsieur Desilets, but the translation is coming through at a lower level on the English channel. It's coming down at a lower level than your voice in French, which is eloquent and beautiful, but it's hard to understand.

I wonder if the interpreters could verify if the set-up for the translation from French to English is correct.

Madam Clerk, please advise if that is adjusted.

**The Clerk of the Committee (Ms. Evelyn Lukyniuk):** I'm being told that it's fine from the interpretation booth.

**The Chair:** It's very difficult to hear Monsieur Desilets, because his voice in French is coming in on the English channel at a higher level than the translation is. It should be coming in at a lower or a subdued level.

Maybe we'll suspend for a couple of minutes and get this sorted out.

• (1140) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1150)

**The Chair:** Please go ahead.

[*Translation*]

**Mr. Luc Desilets:** I'll keep going. This will be very brief.

Like a number of my fellow members, I agree with Mr. Fisher's amendment to strike the emails from the requested documentation. It seems to me that the information collected could serve both committees. That would simply be a more efficient use of public servants' time when searching for the information.

That's all I have to say. My apologies for the technical glitches. I'll try to keep my comments to a minimum today.

[*English*]

**The Chair:** Thank you, Monsieur Desilets.

Your sound is good, as far as I'm concerned, and the interpretation is working, so feel free to intervene as much as you need to.

That being said, is there any more discussion on this amendment?

Seeing none, I will ask the clerk to conduct the vote. The vote is on the amendment to remove "emails" and to make grammatical corrections or adjustments to the motion as may be appropriate.

**Mr. Matt Jeneroux:** Mr. Chair, on a quick point of order, I believe that, for the clerk, who is new to our committee and doing a fantastic job so far, usually it starts with the government side and then goes to our side, in terms of votes. At least that's the precedent we've set at this committee. Perhaps we could clarify that.

Thanks.

**The Chair:** Thank you.

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

**The Chair:** We're back to the main motion, which has now been amended to remove "emails" from the request. Is there any further discussion on the main motion as amended?

Mr. Fisher, please go ahead.

**Mr. Darren Fisher:** Mr. Chair, I want to know, based on what Mr. Jeneroux said there, if we could ask the clerk for clarification. I've been on multiple committees where it's gone back and forth at different times. I know that in the health committee we've always started with the government side, but is this something that we need to do?

**The Chair:** Madam Clerk, if you care to respond, please do so.

**The Clerk:** We can do it in different ways, depending on the committee. We can also do it alphabetically with all the members. With the virtual committees, I think we are readjusting ourselves. But if the committee has the practice of calling the government side first, I'm happy to continue with that practice.

• (1155)

**The Chair:** Thank you.

Mr. Fisher, do you have a further intervention? I see that your hand is still up.

**Mr. Darren Fisher:** No, my hand just didn't come back down.

I don't really have a problem with the way we did it. Whenever we did it that way, I thought back to my past committees, and it seemed strange that we always did it in that particular way. I wasn't sure whether that was a precedent we had set, or whether it was just a thing based on different clerks. It's all good.

**The Chair:** Thank you, Mr. Fisher.

Is there any further discussion on the main motion as amended by Mr. Fisher?

Mr. Fisher, please go ahead.

**Mr. Darren Fisher:** Mr. Chair, on the past few motions at this committee, we talked about adding the vetting line, so I will move now to add at the end of that motion:

, provided that the government does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process.

**The Chair:** Thank you, Mr. Fisher.

**Mr. Darren Fisher:** I could speak to that for a quick second.

A lot was said at the last committee meeting about how we ended up with a motion that had more redactions than the committee was happy with. I have the wording here of the motion we used, and I'll put it out there for the committee's thoughts. It seems more like what we did last Monday when MP Kwan amended the motion and we had come to an agreement with that and passed that, but this is the wording that gave us the response that was more redacted than we wanted, which was what led us to move forward with Conservative vetting language from previous committees. This was what we had passed back in the day that provided less volume or detail than we'd wanted:

that matters of Cabinet confidence and national security be excluded from the request; and that any redactions to protect the privacy of Canadian citizens whose names and personal information may be included in the documents, as well as public servants who have been providing assistance on this matter, be made by the Office of the Law Clerk and Parliamentary Counsel of the House of Commons.

That's the wording we used that gave us the documents that we felt were more heavily redacted. We felt the wording provided—that the department would do its assessment and vetting and gathering and releasing of the documents as would be done through the access to information process, a process passed by Parliament—made more sense and would likely give us more of what the motion is seeking. I know Mr. Jeneroux loves it when I read Conservative motions into the record, which I won't do now, but we've seen that passed at various committees with that wording, so I will move that amendment.

**The Chair:** Thank you, Mr. Fisher.

We'll go now to Ms. Sidhu.

**Ms. Sonia Sidhu:** Thank you, Mr. Chair.



I'm saying this because of the assumption that we want transparency on this issue. We want to know exactly what happened in our long-term care homes, for example. We want to get all the information possible. I have one long-term care home in my riding. We want to protect privacy and the information coming out of the CAF report. That is why I support Mr. Fisher's comment.

**The Chair:** Thank you, Ms. Sidhu.

We will continue with Dr. Powlowski, please.

**Mr. Marcus Powlowski:** I too support the amendment, including the ATIP language. The OGGO committee voted in favour of including the ATIP provisions, and I think all parties agreed with that. I too have concerns about overly redacted documents. I think democracy in a nutshell is that the unelected bureaucrats are held accountable to the elected individuals—us—and we too are then held accountable to the population in an election.

Certainly to have that accountability you need to have transparency. Having said that, I think there are actually some genuine, good reasons for excluding some information and not making some of it public. An example is personal information that could be detrimental to individuals. Especially this is going to be more of the case when it comes to the motion on chronic care homes, but there is also information relating to our relationship with the provinces. There may be some sensitive information there. In managing this pandemic, I think we have had good relationships with the provinces. I think we want to continue to have good relationships, and we don't want to jeopardize that by forcing ourselves to reveal all documents, some of which potentially may affect our relationships with the provinces, and that is included in the ATIP provisions.

The ATIP provisions seem to me to be reasonable. Now, if it comes back that it's overly redacted, then I agree with the opposition. This is a change from the previous February motion, and hopefully this will give us better results in terms of not overly redacted documents.

● (1200)

**The Chair:** Thank you, Dr. Powlowski.

We go now to Mr. Jeneroux, please.

**Mr. Matt Jeneroux:** I would certainly agree to amend it to be similar to what our motion was last week. However, and again so committee members are clear, this is what happened in February: The government chose to redact certain portions of it. The motion that passed last Monday was that the Office of the Law Clerk and Parliamentary Counsel was provided the opportunity to provide those redactions for privacy concerns and a variety of others. I would certainly be amenable to changing the motion to be similar to last Monday's motion, but this motion certainly doesn't achieve what the government is saying it intends to achieve.

**The Chair:** Mr. Davies, go ahead.

**Mr. Don Davies:** Thank you.

For the sake of completeness, there are some important points of information to follow up Mr. Fisher's point which, I'm afraid, leaves an extremely misleading impression to this committee that it was

the wording of the motion back in February that led to heavily redacted information. That is not true.

He did read out the motion that we made back on February 26, which instructed that the committee order all documents subject to redaction for the points that Mr. Fisher raised. The motion did restrict redaction to protect privacy of Canadian citizens and did make the other points.

However, what is being left out is from the letter we received after that from Mr. Dufresne, the law clerk and parliamentary counsel, dated March 20, which was sent to our clerk of the committee, Mr. Jacques. I'm going to quote from that letter:

On March 15, 2020, the Deputy Minister of Health Canada provided the Committee with documents in response to its production order for the departments of Health, Transport, Global Affairs, Public Safety and National Defence. A letter accompanying the documents stated that redactions had been made to protect personal information in accordance with the *Privacy Act*, and that redactions had also been made "to avoid injury to international relations as well as relations with the provinces and territories; to protect information considered advice to a Minister; for the protection of government assets; and, to protect solicitor-client privilege."

The letter goes on to say:

These latter grounds for exemption from disclosure are contained in the *Access to Information Act*.

I'm going to pause here and just say this: The grounds for redaction are much broader under the Access to Information Act than they are in what we had instructed as the three criteria in our original letter, which were privacy, national security and cabinet confidence. The problem was that the department violated the instructions of this committee back in February and applied the ATIP criteria, which is what resulted in the extensive heavy redactions.

I'm going to go on to quote from the law clerk's letter to our committee:

Upon reception of the documents on March 15, 2020, you provided them to my Office so that we could make the necessary redactions to protect the privacy of Canadian citizens, permanent residents and public servants as contemplated by the production order. However, as mentioned above, the documents had already been redacted by the respective departments.

As my Office has not been given the opportunity to see the unredacted information, we are not able to confirm or adopt those redactions. My Office did make one additional redaction to the documents regarding a public servant.

It goes on to refer to a meeting:

During that meeting, we reminded the government officials that the House's and its committees' powers to order the production of records is absolute and unfettered as it constitutes a constitutional parliamentary privilege that supersedes statutory obligations. We added that the House and its committees are the appropriate authority to determine whether any reasons for withholding the documents should be accepted or not; and that it was for the Committee to determine whether it was prepared to accept any proposed measures that would prevent the disclosure of sensitive information for any reason.

I'm going to stop there. Here is the actual fact of the matter: We can't have departments—civil servants—deciding what they want to redact or not redact. That is truly having the fox guard the hen-house.

If the Liberal members of this committee actually believe in the words they are saying and do believe, as Mr. Powlowski just said, that it's for elected officials to hold public servants accountable and not the other way around, then we need to insist that unredacted information come to this committee, and that it's for us, not civil servants, to determine whether information should be protected or redacted or whether it should go to the law clerk in unredacted fashion for the law clerk—not civil servants, whose very information may be the subject of embarrassment or may be information we want to get—to make that determination.

• (1205)

I think it's very important to clarify Mr. Fisher's comments. I don't want to leave the impression that we had such heavily redacted information back in February because we limited redaction to the three criteria; it was, in fact, the department's violation of this committee's instructions and adoption of ATIP, the broader ATIP redaction criteria, that caused that result.

If this committee does really believe, as Ms. Sidhu just said and Mr. Powlowski, Mr. Fisher and Mr. Kelloway said.... If the Liberal members of this committee do believe that it's for this committee to get to the bottom of the issues that are the subject of Mr. Jeneroux's motions and to have information for us to hold the civil service accountable, then we will limit redactions to the three bases that already are totally justified: privacy of individuals, national security and cabinet confidences, we will stipulate that information should not be redacted by any department beyond those three criteria, and then that the information should be sent to the law clerk. Actually, information should all be sent to the law clerk, and the law clerk should be redacting according to those criteria.

The members of this committee need to be absolutely crystal clear that ATIP criteria for blocking information are far wider. Perhaps I can ask the clerk to specify to all of the members of this committee what the criteria are in the access to information process so we know exactly what grounds are used to redact information under ATIP requests before we apply that standard in this committee.

Thank you, Mr. Chair.

• (1210)

**The Chair:** Thank you, Mr. Davies.

I have Mr. Van Bynen next. However, before we go to Mr. Van Bynen, I'm going to ask Mr. Fisher.... I have a note from the clerk to confirm what the amendment is.

The amendment is to add, after the words "N95/KN95 masks", the following:

, provided that the government does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process.

Mr. Fisher, could you please verify that is the motion?

**Mr. Darren Fisher:** That is the wording. That is the addition to Mr. Jeneroux's motion.

**The Chair:** Great. Thank you, Mr. Fisher.

We go now to Mr. Van Bynen.

**Mr. Tony Van Bynen:** Thank you, Mr. Chair.

The point I want to make is that there is a legal obligation that is placed upon the public service, as a non-partisan party, to protect privacy. That is why this government adopted the ATIP guidelines and rules. Those rules should be sufficient to provide the information the government is seeking, and those rules should be sufficient or should be relied upon for a fair, equitable, unbiased, non-partisan review of the information that should be excluded for the very reasons that were raised earlier: to protect privacy, cabinet interests, national security, and all of the specifics that are identified in the ATIP legislation.

I don't understand why we feel we need to go beyond that. If so, then why don't we review the ATIP procedures, the ATIP legislation, and make that more encompassing? It was satisfactory when it was adopted. It was adopted by a majority of government. Why should we change that? Those guidelines are legitimate and specific, and they protect the interests of the government and of all the people we necessarily need to deal with, such as other municipalities and other provinces and territories. I think we have an obligation to protect their rights, and I believe that can be done by an independent group of non-partisan public service officers.

**The Chair:** Thank you, Mr. Van Bynen.

I'll go back to Mr. Davies, please.

**Mr. Don Davies:** Thank you, Mr. Chair.

I think it would be helpful if I would ask that the clerk specify all of the grounds for redaction under access to information so that this committee knows what those grounds would be. Committee members will see that there are many more grounds for redaction than just the privacy, cabinet confidence and the national security criteria. We would say that is the alternate way of proceeding.

In response to my colleague Mr. Van Bynen, I would just point out one thing: There is a difference between the ATIP process and the powers of a committee to compel production. We're not the same body. We're not a member of the public seeking information from the government, nor are we an individual member of Parliament seeking information through the ATIP process.

I'm going to remind you that these are the words of the law clerk of the House of Commons.

...we reminded the government officials that the House's and its committees' powers to order the production of records is absolute and unfettered as it constitutes a constitutional parliamentary privilege that supersedes statutory obligations.

ATIP is a statute that governs the regular process of seeking information from government. That's not who we are in this, and that's not the power and the privilege that we are exercising in this case. To accede to that argument is to relegate this committee to the same status as a regular citizen. That's not what the citizens of this country expect us to do. They have accorded constitutional authority to these committees to get information beyond that. That's what they expect us to do.

I'd like to hear an argument for why the members of the committee who are in favour of this amendment want to clip our wings and circumscribe our ability to get the documents that we need to get in order to truly hold the civil service accountable.

• (1215)

**The Chair:** Thank you, Mr. Davies.

I note that you have asked the clerk to weigh in on the particulars of the access to information process. I'm not sure that the clerk has that information, but I will invite her to do so if she feels that it's appropriate.

**The Clerk:** I'm not an expert on the Access to Information Act. If the committee wishes to have more information on what would be, I guess, the differences between asking for documents under the privilege of the committee versus asking for information under the Access to Information Act, that question would have to be asked of the Office of the Law Clerk and Parliamentary Counsel, and we'd be happy to send the question over to them if the committee wishes.

**Mr. Don Davies:** Thank you, Mr. Chair.

If I might, that would be helpful, I think, for future guidance for the committee members, but I will offer this, because in a sense we already have that in the letter from the Parliamentary Counsel to Mr. Jacques, the clerk of this committee, on March 20. What is said in this letter is that after we had requested that redactions be limited to matters of cabinet confidence and to matters of national security and privacy, the law clerk pointed out that the deputy minister of Health Canada went beyond that and in the letter said this:

A letter accompanying the documents stated that redactions had been made to protect personal information in accordance with the *Privacy Act* and that redactions had also been made "to avoid injury to international relations as well as relations with the provinces and territories; to protect information considered advice to a Minister; for the protection of government assets; and, to protect solicitor-client privilege." These latter grounds for exemption from disclosure are contained in the *Access to Information Act*.

I'm not sure that that is a complete description, but it gives committee members here a glimpse into what the law clerk is telling us are the additional grounds contained in access to information, and some of them, as you can see, you can drive a truck through.

If we're going to let the department redact information that, in their opinion, is considered advice to a minister, or if they think it might damage relations with the provinces and territories, these are so amorphous, they are so subjective, they are so broad that you end up getting exactly what we got in March, which is page after page after page that was blacked out.

If that's what this committee wants, then that's what will happen if we adopt this amendment to allow redactions according to the Access to Information Act. We will have those criteria that I just read out.

**The Chair:** Thank you, Mr. Davies.

Dr. Powlowski, please go ahead.

**Mr. Marcus Powlowski:** As always, Mr. Davies makes very good points. He's a real lawyer, unlike me. I would agree with him, based on *House of Commons Procedure and Practice*, third edition, that the Standing Orders do not limit the power to order the production of papers and records. The result is a broad, absolute

power that, on the surface, appears to be without restriction. Having said that, I think—and even Mr. Davies would agree—there are certain things that you certainly don't want to make public. If we procure documents and they go to the committee and are not made public, I'm not sure what we're going to get out of it, but there are certainly things that I think are not in our country's best interest to reveal or in an individual's best interest to reveal. There are things like, for example, personal information. I'm sure Mr. Davies agrees with that.

Also, I think in terms of our relationship, Mr. Davies is right. ATIP is very broad and includes withholding information relating to our relationship with the provinces. I have the actual provision if you want to read it at some point. That is included in ATIP; however, I think there's a good reason for that, because we do have to work with provinces. Our being able to come to agreements with the provinces and to have good relationships with them is certainly fundamental in our management of the pandemic. If we were to reveal everything, I think that could potentially impact our relationships with the provinces. Similarly, there are provisions relating to our relationships with other countries and not revealing information that may be detrimental to other countries. I think there is good reason to exclude some material.

I would agree with Mr. Davies. If you take a really liberal interpretation of ATIP provisions, all the things that can be excluded under ATIP—I do have a list of them here—as he has indicated, make up a very long list. I think the department has to be very conservative in applying that and not just give a bunch of bureaucrats markers and say, "Go crazy." If they do, and if these documents come back heavily redacted without any information or with large parts of it excluded, then I think that's a problem, but I don't think they will. The department, as opposed to a ministry, is supposed to be non-partisan, and I do have some faith that they will apply the redactions in an appropriate way.

• (1220)

**The Chair:** Thank you, Dr. Powlowski.

Is there any further discussion on this amendment?

Seeing none, I will ask the clerk to conduct the roll call vote. The vote is on the amendment as moved by Mr. Fisher.

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

**The Chair:** Thank you, Madam Clerk. The vote carries.

The discussion now carries on with Mr. Jeneroux's motion as amended. Is there any further discussion on this motion?

I'll ask one more time: Is there any further discussion on the main motion as amended? Seeing none, I will ask the clerk to conduct a vote. The vote is on Mr. Jeneroux's motion as amended.

**Mr. Darren Fisher:** Mr. Chair, I have a point of order. Are we going again the way we have traditionally gone in voting, or are we going to shake it up a bit?

**The Chair:** I think we should stick with our past practice. If we want to change our practice, we should discuss it at another time.

Please go ahead with the vote, Madam Clerk.

**Mr. Marcus Powlowski:** I have a point of order.

Could somebody read the amended motion we're voting on?

**The Chair:** Sure. Go ahead, Madam Clerk, if you wouldn't mind, and read the motion as amended.

**The Clerk:** The amended motion reads as follows:

"Pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 31, 2020 and that the documents be published publicly on the committee's website by Monday, September 7, 2020:

"All documents, briefing notes and memorandums to/from/ between Health Canada, the Public Health Agency of Canada, and the Privy Council Office related to the issuance of Medical Device Establishment Licenses (MDELs) between March 1, 2020 and May 11, 2020; including all documents, briefing notes and memorandums to/from/ between Health Canada, the Public Health Agency of Canada, and the Privy Council Office related to the recall of N95/KN95 masks, provided that the government does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process."

• (1225)

**The Chair:** Thank you, Madam Clerk.

Is everyone clear now on the—

**Mr. Darren Fisher:** Mr. Chair, on a point of order, I think it's that the "department" does its assessment, not that the "government" does its assessment.

**The Chair:** Okay.

Madam Clerk, could you make that change? I think that is what we confirmed earlier.

**The Clerk:** That's perfect.

**The Chair:** Thank you.

Are we clear now on the motion before us, as amended?

Seeing no hands, we'll carry on with the vote. Madam Clerk, please go ahead.

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

**The Chair:** Thank you, Madam Clerk.

Mr. Jeneroux, if you wish to carry on with your other motions, please move your next motion.

**Mr. Matt Jeneroux:** Let's see if we can get two done in a day, Mr. Chair. Wouldn't that be something?

Let's move on to the motion with regard to interim order. I'll read it out for you and, Mr. Chair, just so you're clear, I've already amended the dates as we had agreed to with the other motion, so I'll read it with the amended dates.

It reads, "Pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 31, 2020, and that the documents be published publicly on the committee's website by Monday, September 7, 2020.

"All documents, briefing notes, memorandums and emails to/from/ between Health Canada, the Public Health Agency of Canada, and the Privy Council Office related to the March 18, 2020, interim order by the Minister of Health entitled "Interim Order Respecting the Importation and Sale of Medical Devices For Use in Relation to COVID-19" and the March 30, 2020, interim order by the Minister of Health entitled "Interim Order Respecting Drugs, Medical Devices and Foods for a Special Dietary Purpose in Relation to COVID-19"."

**The Chair:** Thank you, Mr. Jeneroux.

Is there any discussion on this motion?

Mr. Fisher, please go ahead.

**Mr. Darren Fisher:** I'm just putting it out there that it's the same as with the last motion. This one is very much covered in the OGGO one. I won't read that back into the record again. It's the same one that covers all this.

I'm just putting it out there to see if Mr. Jeneroux would be willing to withdraw this motion and have the information that OGGO collects, and we can put that on our website.

**The Chair:** Mr. Jeneroux, perhaps you wish to respond quickly.

**Mr. Matt Jeneroux:** Again, no. It's the same reasoning, Mr. Chair. We're our own committee, and it's important that we get this information as it pertains to the differences in this motion.

**The Chair:** Thank you, Mr. Jeneroux.

We go now to Dr. Powlowski.

**Mr. Marcus Powlowski:** I have a motion to amend the original motion, and that is by pushing the date from August 31 to September 7. The motion was moved on July 7, so that's pretty recently. It would just allow the department a little more time in producing the required documents.

**The Chair:** Just to clarify, I think Mr. Jeneroux incorporated that change in his motion as moved.

• (1230)

**Mr. Matt Jeneroux:** Yes, I did. I asked Mr. Powlowski to move to the second amendment he has on his piece of paper there provided to him by the whip's office, as opposed to the first one. We've already dealt with that one.

**Mr. Marcus Powlowski:** Okay. My apologies if the dates are already right.

**The Chair:** Thank you, Doctor.

I have Mr. Kelloway next.

**Mr. Mike Kelloway:** In terms of the motion, I would make an amendment around the removal of “emails” in the first paragraph, the first line.

**The Chair:** We have a motion to amend the motion, as previously, by removing “emails” and making appropriate grammatical adjustments.

The discussion now is on Mr. Kelloway's amendment.

Ms. Jansen, please go ahead.

**Mrs. Tamara Jansen:** I hate to waste time here, but I have to say again that perhaps not everybody is talking to the right people when they're going out into their constituencies to find out how upset Canadians are and how little trust they have in what we've done on this pandemic. Again, the idea of not allowing emails to be part of this discussion is going to continue to hurt the trust of Canadians. It is not transparent. It is actually holding back information that would help people believe—actually believe—that what you guys are saying is absolutely true.

We have to really look at the fact that people don't believe what's being said. How are we going to get them to believe what's being said? Lay it out on the table, open up the books, and show them what was said and what was done. That's the way to gain their trust. Transparency is absolutely critical.

**The Chair:** Thank you, Ms. Jansen.

We have Mr. Kelloway next.

**Mr. Mike Kelloway:** Allow me to be transparent. I have no talking notes or briefing notes on it.

I think one of the hallmarks of this committee is to have real, substantive discussion, whether it's from the NDP, the Conservatives, the Bloc, or my own party. I think we get into these generalizations that yes, Canadians are worried, and yes, Canadians want action, but when you use words like “don't trust”, there seems to be.... I wish there wasn't so much gaslighting that's happening on this committee in terms of certain terminologies that are used.

I'll stand by my belief around the removal of “emails”, as stated in the last motion, but I think we can have a really good debate without that kind of discussion.

**The Chair:** Thank you, Mr. Kelloway.

You should actually move your mike up a bit higher when you speak. It will be better for the interpreters.

Mr. Davies, please go ahead.

**Mr. Don Davies:** Mr. Chair, as a clarification, are we specifically talking about the removal of “emails” at this point and not the redaction process?

**The Chair:** That is correct.

**Mr. Don Davies:** Okay, I'll pass. My remarks will be directed towards redaction.

**The Chair:** Okay. Thank you.

Is there any further discussion on Mr. Kelloway's amendment?

Seeing none, we will go to the vote.

The vote is on Mr. Kelloway's amendment, which is to remove “emails” from the list of documents to be returned, and make appropriate grammatical adjustments in doing so.

Madam Clerk, please conduct the vote.

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

**The Chair:** Thank you, Madam Clerk.

The discussion resumes on the main motion as amended by Mr. Kelloway. Is there any discussion?

Madam Sidhu, please go ahead.

• (1235)

**Ms. Sonia Sidhu:** Mr. Chair, is what is done after that [*Technical difficulty—Editor*] next speaker.

**The Chair:** Thank you.

I'll go to Mr. Davies.

**Mr. Don Davies:** Mr. Chair, I'm waiting to speak for.... I anticipate the next amendment on the redaction process.

**The Chair:** Very well. Is there any further discussion? We're on the main motion. There is no amendment on the floor yet.

**Ms. Sonia Sidhu:** Mr. Chair, I am having trouble being heard, but can I speak to Mr. Jeneroux's motion?

**The Chair:** Yes, you can. Your sound quality seems to be okay right now.

Go ahead.

**Ms. Sonia Sidhu:** Mr. Chair, I would like to propose the following amendment to this motion. The amendment would read, “provided that the department does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process”.

As the members know, our federal departments are always discussing issues under provincial jurisdictions with their provincial colleagues. Many of these communications are included in documents that could be caught up in this motion as it stands now. The amendment I propose would ensure communication and trust between the provinces and the federal government is protected. This is a matter of protecting private information, while at the same time ensuring the committee gets the information it is looking for.

Furthermore, it's clear that the opposition members also agreed with this at one point, as this language has already been used in motions in AGRI and OGGO. It's reasonable that we use the same approach now, Mr. Chair.

**The Chair:** Thank you, Madam Sidhu.

I will go now to Mr. Van Bynen.

**Mr. Tony Van Bynen:** Thank you.

The motion that was put forward by Ms. Sidhu, I intended to do that as well. I think there has been a very fulsome discussion about this, so I just want to say that I support the motion.

**The Chair:** Thank you, Mr. Van Bynen.

We will go now to Mr. Davies.

**Mr. Don Davies:** Thank you.

I agree with Mr. Van Bynen that there has been a fulsome discussion, so I'm not going to repeat the points that I've made earlier and that others have made.

I also want to just say I agree with Mr. Kelloway that I also don't take this position on redaction and disclosure based on any negative view of the Canadian public. That's not my motivation here. My motivation here really is to ensure that independent committees exercise our full powers in a way that's independent of the government and in a way that's responsible and in the best traditions of accountability and transparency.

What I wanted to add to this is that my excellent researcher has sent me the grounds for redaction under the Access to Information Act, so I thought I would just read those into the record so that my colleagues are aware and we know exactly what we're doing before we vote on this and agree to redact information. Here are the grounds under ATIP: information obtained in confidence; federal-provincial affairs; international affairs, defence and national security; law enforcement investigations and security of penal institutions; safety of individuals; economic interests of the Government of Canada; personal information; third party information; advice; testing procedures; solicitor-client privilege; statutory prohibitions; and information to be published.

If that's a complete list, then I'm led to believe there are 13 separate grounds for redaction. Those are exactly the grounds for redaction that resulted in the completely unacceptable material that we had delivered to this committee back in February and March. I think all committee members who had a chance to review that information would, contrary to what Ms. Sidhu said or her admonition, agree that we didn't get the information that we sought.

I don't know why this committee would now formalize the adoption of criteria for redaction that everyone in this committee knows are going to result in us not getting the information that we want, but rather just getting information that any person in any community in this country can get from this government. We are basically neutering this committee's powers of production and guaranteeing that we're not going to get the information that the substance of the motion wants.

I agree with Ms. Sidhu that we should be getting information that we want, but mark these words here, because when we get this information if this passes.... I must say for the record, I'm a little disappointed in the Bloc's agreeing with this because my understanding is that last week the Bloc did agree with a redaction process that would result in more production of documents.

We will revisit this issue again in September when we get these documents, and we'll see whether or not the ATIP criteria result in this committee getting the information that we really want to get, because if it doesn't, I hope that all of us are open-minded enough then to review this and make sure this committee can actually get the information we want.

Finally, I would just say I don't think there's anybody on this committee who wants to harm federal-provincial relations or any other such things. I think all of the colleagues on this committee want the same thing. We're the health committee. We have a vested interest, as no other parliamentarians do, to look into, in detail, matters of fundamental importance to public health in this country. These are things like determining the about-face on masking, where we had the chief medical officer and the health minister of this country telling Canadians not only that we didn't need masks but that masks would be harmful to public health. That's what the position of PHAC was about three or four months ago, and now we know that's completely not wise public health advice.

When we're told by Dr. Tam that she changed her mind because of recent evidence.... For us to be able to test that as parliamentarians, we need to have access to the full information that she had to determine whether that is actually true, and whether or not Canadians are getting the unvarnished facts.

● (1240)

This is where I think Ms. Jansen's point is well made. The Canadian public may or may not have lost trust in this government, but we risk having them lose trust in their chief public health officer and the government if we, as parliamentarians, fail them and do not seek out information when we have such a colossal, blatant about-face in public health policy, if we're not prepared to look at that in an unvarnished courageous way. That's what I think is behind these motions, not a nefarious attempt to violate someone's rights.

I'm going to conclude by saying that, as you can see, some of these criteria are so broad that if we're allowing the vetting for third party information, for personal information, for safety of individuals and for advice, we are guaranteeing that the documents we will get back from this request are going to be so heavily redacted as to be virtually useless to this committee. Again, mark these words, because come September or October when we get these documents back, each member here who votes in favour of this and denies that will be held accountable. We'll see if those documents really do provide the information that we really need to see and want to see, as Ms. Sidhu passionately claimed.

Thank you.

**The Chair:** Thank you, Mr. Davies.

We go now to Dr. Powlowski.

Go ahead, please.

• (1245)

**Mr. Marcus Powlowski:** I appreciate Mr. Davies' comments and I think the onus is now on the Department of Health. If they come back with documents that are heavily redacted and basically useless and that make the department non-transparent in the areas where we want transparency, then it's certainly going to undermine those of us on the Liberal side who are preaching transparency. I fully agree with Mr. Davies that there has to be that transparency. I have some trust that the Department of Health will do their redactions judiciously. If they do them very liberally and apply everything under ATIP in a very liberal fashion, large parts can be redacted, but I look forward and hope and trust that the Department of Health will do the redactions appropriately and in the best interests of Canada, and the best interests of Canada include transparency.

**The Chair:** Thank you, Dr. Powlowski.

We go back to Ms. Jansen.

Go ahead.

**Mrs. Tamara Jansen:** I just have to say, Mr. Chair, how really disappointed we are that yet again we are not going to be allowed to have the documents that we need to ensure that there's complete transparency and openness. I believe that is very important to ensure that Canadians are confident in the decisions that are being made on their behalf for their safety, and I continue to be extremely saddened that we cannot find a way to be open and transparent at this committee.

**The Chair:** Thank you, Ms. Jansen.

We'll go back to Mr. Davies.

Go ahead.

**Mr. Don Davies:** I'd like to thank Dr. Powlowski for those comments.

There's one thing that's important to remember. I don't think we have to wait to see in September how the department is going to react, because we already have an example of how they reacted.

Again, the law clerk of the House of Commons took the unusual step of writing to the clerk of our committee when he received the

documents pursuant to our first request back in February. I think it's really important for committee members to think about this.

I'm going to quote from his letter again. It said here:

Upon reception of the documents on March 15, 2020, you provided them to my Office so that we could make the necessary redactions to protect the privacy of Canadian citizens, permanent residents and public servants as contemplated by the production order. However, as mentioned above, the documents had already been redacted by the respective departments.

Even though there was an order to the department to provide the documents to the law clerk and to let the law clerk do the redactions, and to redact them only according to the three criteria we had given them, the department took it upon themselves to do the redactions and to redact according to ATIP, when that was clearly in violation of the production order of this committee.

Moreover, in terms of Dr. Powlowski's thought that maybe we can see how they do and then respond, this is what the law clerk said to us in the same letter:

As my Office has not been given the opportunity to see the unredacted information, we are not able to confirm or adopt those redactions.

Once you get page after page that are blacked out, there is no way to determine how wisely or responsibly those redactions were applied.

Those would be my responses to the claim to just see how the department does and we'll be able to hold them accountable. No, we won't. This committee has one job right now, and that is that we have to determine what the criteria are that we're going to give to the department in terms of the documents we seek. I think it's completely responsible for us to say, "Send those documents to the law clerk and have the law clerk redact according to specific criteria."

If Liberal members of this committee think that those three criteria are not broad enough, then the amendment should be to add some more, so maybe add federal-provincial relations or whatever you want, but by simply adopting the ATIP criteria, all 13 of them holus-bolus, nobody can look anybody in the eye at this meeting and say, "Whoa, let's wait and see. I'm sure we'll get fulsome information from the department in September. They'll give us everything we want to know about this."

Anybody who is seriously advocating that right now is not paying attention to the evidence that we have before us of how they responded when we asked for the documentation in February and March.

• (1250)

**The Chair:** Thank you, Mr. Davies.

The amendment to Mr. Jeneroux's motion as previously amended is to incorporate the ATIP information as we did in the last motion. Is there any further discussion?

(Amendment agreed to: yeas 6; nays 5)

(Motion as amended agreed to: yeas 6; nays 5)

**The Chair:** We go back now to Mr. Jeneroux. I believe you have another motion you might wish to move.

**Mr. Matt Jeneroux:** Yes, I do, Mr. Chair, and it is my final motion. I move that:

Pursuant to Standing Order 108(1)(a), the committee send for the following documents to be provided by the government by Monday, August 31, 2020, and that the documents be published publicly on the committee's website by Monday, September 7, 2020:

All documentation from the Military Report on Long-term care homes in Ontario.

**The Chair:** Thank you, Mr. Jeneroux.

We have a motion on the floor, which is the motion to receive information about the military report. Mr. Jeneroux has made the date changes, as he expects them to be asked for.

Is there any discussion? We have Mr. Powlowski.

**Mr. Marcus Powlowski:** At the risk of looking really stupid and making the same mistake twice, do we have the dates right? Now the dates are August 31, and I'm requesting it be amended to the date of the 7th for being published publicly on the committee site. It would be changed from August 10 to September 7.

**The Chair:** Yes, Dr. Powlowski, I believe that is how Mr. Jeneroux made his motion.

Mr. Jeneroux, perhaps you wish to confirm.

**Mr. Matt Jeneroux:** Yes, Mr. Chair, that's how I did it.

**The Chair:** Thank you.

Dr. Powlowski, the date changes you were interested in have already been incorporated into the motion.

We go now to Ms. Sidhu.

• (1255)

**Ms. Sonia Sidhu:** Mr. Chair, I'm [*Technical difficulty—Editor*].

**The Chair:** Pardon me, Ms. Sidhu. Your sound quality is very bad. Perhaps if you turn off your video, you might get better sound. Could you try that?

That's good. Try speaking now.

**Ms. Sonia Sidhu:** Mr. Chair, I would like to propose the following amendment to this motion.

The amendment reads, "provided that the department does its assessment and vetting in gathering and releasing the documents as it would be done through the access to information process". The reasoning for this amendment is the same as before. I believe adding language like this will ensure we receive the best information possible, while protecting privacy issues, such as interprovincial communications.

**The Chair:** Thank you, Ms. Sidhu.

Is there any discussion on this amendment? Ms. Sidhu has moved to amend the main motion by adding the ATIP qualification.

Ms. Jansen, please go ahead.

**Mrs. Tamara Jansen:** I just want to say once again that we really should hold ourselves to a higher bar of communication and openness. It's just a shame what we're doing here.

**The Chair:** Thank you, Ms. Jansen.

Is there any further discussion on Ms. Sidhu's amendment?

(Amendment agreed to: yeas 6; nays 5)

(Motion as amended agreed to: yeas 6; nays 5)

• (1300)

**The Chair:** That wraps up our business for the moment. We now—

**Mr. Don Davies:** Mr. Chair, I have a point of order.

I'm sorry if I've misunderstood this, but did Mr. Desilets vote no?

**The Chair:** I believe so.

**Mr. Don Davies:** Would that not be six nays to five yeas?

**The Chair:** I'll ask the clerk to verify it.

Madam Clerk, would you verify?

**The Clerk:** I had Mr. Desilets voting yes.

Mr. Desilets, could you confirm?

**The Chair:** Monsieur Desilets, did you vote *oui* or *non* on the motion as amended?

[*Translation*]

**The Clerk:** Mr. Desilets, you're on mute.

**Mr. Luc Desilets:** There's been an issue with the audio for the past minute or so. Can I have just a moment to listen back to what was said? I'll get right back to you.

[*English*]

**Mr. Robert Kitchen (Souris—Moose Mountain, CPC):** Mr. Chair, I'm sorry. I very clearly heard Mr. Desilets say "no". If he's needing to hear from the whip, then I think it's inappropriate. We had the vote; he voted no.

**The Chair:** We are just confirming his vote.

**Mr. Robert Kitchen:** This gives the individual a second vote, Mr. Chair.

He had his first vote. He does not get a chance to revoke once the vote is done.

[*Translation*]

**Mr. Luc Desilets:** I'm against the amendment. It's not my fault there was a problem with the audio. I'm in favour of the motion.



[English]

**The Chair:** The vote is on the motion as amended. Is that how you voted?

[Translation]

**Mr. Luc Desilets:** If you can hear me, on the amended motion, my vote is yea.

Can you hear me, Mr. Chair?

[English]

**The Chair:** Did you vote on the amended motion, yes or no?

I'm sorry, Mr. Desilets, you're—

[Translation]

**Mr. Luc Desilets:** I vote yea on the amended motion. If you can hear me, my vote is yea.

[English]

**The Chair:** Thank you.

The clerk's tally stands. The motion is carried.

**Mr. Don Davies:** I'm sorry, Mr. Chair. I have a point of order on this. I'd like to ask the clerk's advice on this.

I want Mr. Desilets to vote the way he wanted, but he did vote no on the motion. I don't know what happens in a case like this. Are you allowed to change your vote after the vote has been conducted, because perhaps you were confused about what we were voting on? I don't want to get too technical, but I'd like to know from the clerk what the proper procedure is in a case like this.

**The Chair:** I will jump in here first. We see this all the time in the House. People may vote one way or the other on a bill or a motion, and they stand up later and say, "Please, correct my vote," and the Speaker accepts that. I think that's an appropriate process for this. We want people to be clear about what they're voting on and, if they are mistaken on that, I think it behooves us to accept their correction.

If, Madam Clerk, you wish to give any further insight into this, please feel free to do so.

**The Clerk:** I can look at the blues after the meeting and put in the proper decisions, or we could suspend and I could go look at ParlVu right now.

• (1305)

**The Chair:** The question, as far as I'm concerned, is not whether Mr. Desilets said "yes" or "no" at the time. It's whether he was clear on what he was voting on. He has since asked for his vote to be recorded as a yes on that motion. As chair, I would rule that in order for him to do because it is consistent with House practice. I have observed over the years that people who have inadvertently voted wrongly on a given matter have been allowed by the Speaker to correct a vote afterwards.

Ms. Jansen, do you have a comment?

**Mrs. Tamara Jansen:** I'm just curious how the clerk counted his answer as a yes when he said no? How did that happen exactly?

**The Clerk:** I'm sorry. That's how I registered it. I would be happy to look at ParlVu or the blues of the meeting.

**The Chair:** In any case, Mr. Desilets has clarified that he intended to vote yes on the motion as amended, and I will let that stand.

That being the case, we have finished Mr. Jeneroux's motions, so we now have on the schedule to do an in camera meeting for instructions relating to the report that we're going to do on the COVID-19 study. To do that, we have to exit this session and log back in to the other session.

You have all presumably received the link for that with a separate password. We will suspend for the moment, and we will resume in camera on the next Zoom session.

Thank you.

[Proceedings continue in camera]





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