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# Standing Committee on Procedure and House Affairs

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Chair: Ms. Ruby Sahota





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• (1100)

[English]

**The Chair (Ms. Ruby Sahota (Brampton North, Lib.)):** Good morning, everyone. I'd like to call the meeting to order.

First, I'd like to wish a very happy birthday to Ms. Normandin. This is probably not the way you imagined spending your birthday, but we're very happy to be in your presence today. We hope your day goes well.

Welcome to meeting 13 of the House of Commons Standing Committee on Procedure and House Affairs. Pursuant to the order of reference of Saturday, April 11, the committee is meeting to discuss the parliamentary duties in the context of the COVID-19 pandemic.

Before we start, I want to inform members that pursuant to the order of reference, the committee is meeting for two reasons. Number one is for the purpose of undertaking a study and receiving evidence concerning matters related to the conduct of parliamentary duties in the context of COVID-19. Number two is to prepare and present a report to the House of Commons by May 15 on the said study. The order of reference also stipulates that only motions needed to determine witnesses, and motions related to the adoption of the report, are in order.

Today's meeting is taking place by video conference. The proceedings will be made available via the House of Commons website. Just so you are aware, the webcast will always show the person speaking rather than the entirety of the committee as you see it on your Zoom screen right now. That is the online screen that people can stream and watch. It will just be focused on the speaker when they are speaking.

In order to facilitate the work of our interpreters and ensure an orderly meeting, I would like to outline a few rules. This is mainly for the benefit of the new witnesses we have before us today, although we know they are probably well versed in procedural rules like these and etiquette for these meetings.

Interpretation in this video conference will work very much like it does in a regular committee meeting. You have the choice, at the bottom of your screen, of floor, English or French. We have noticed that it is best, if possible, to remain speaking in one language and to select that language at the bottom of your screen. If you are going to switch from one language to another, please also pause in between and switch that language at the bottom of your screen. Remaining on floor language sometimes has caused some difficulties.

Before speaking, please wait until I recognize you by name. When you are ready to speak, you can either click on the microphone icon to activate your mike or hold down the space bar while you are speaking. When you release the space bar, your mike will mute itself, just like a walkie-talkie.

I would remind you that all comments by members and witnesses should be addressed through the chair. Should members need to request the floor outside the designated time for questions, they should activate their microphone and state that they have a point of order. If a member wishes to intervene on a point of order that has been raised by another member, the member 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 your screen. When the list pops up, please click the "raise hand" icon.

When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute. The use of a headset is strongly encouraged.

Should any technical challenges arise—for example, in relation to interpretation or any problem with your audio—please advise me immediately. The technical team will work to resolve your problem. Please note that we may need to suspend during these times, as we want to ensure that all members can participate fully.

Before we get started, can you all click on your screen in the top right-hand corner and ensure that you are on gallery view? This view should enable you to see all participants in one view. It will ensure that participants can see one another.

During this meeting, we will follow the same rules that apply to opening statements and the questioning of witnesses during our regular meetings. As per the routine motions of the committee, each witness has up to 10 minutes for an opening statement, followed by the usual rounds of questions from members. Just as we usually would in a regular committee meeting, we will suspend in between panels in order to allow the first group of witnesses to depart and the next panel to join the meeting.

I'd like to welcome our witnesses here today.

We have with us Matthew Hamlyn, strategic director of the chamber business team from the House of Commons of the United Kingdom of Great Britain and Northern Ireland.

• (1105)

We also have with us Siwan Davies from the National Assembly for Wales and Ian McCowan from the Privy Council Office. From the Scottish Parliament, we have two witnesses: David McGill and Bill Ward.

Welcome to all of you.

We will start with you, Mr. Hamlyn, for your 10-minute opening statement, please.

**Mr. Matthew Hamlyn (Strategic Director, Chamber Business Team, Chamber and Committees, House of Commons of the United Kingdom of Great Britain and Northern Ireland):** Thank you, Chair, to you and to all the members of the committee for this invitation to give evidence to your committee on a subject that is occupying all of my time at the moment.

I see that I have been asked to speak for up to 10 minutes. I don't think I have 10 minutes' worth of material, you'll be very glad to know, given that you have a lot of witnesses to get through.

**The Chair:** That would be great.

Actually, I would like to highly encourage all the witnesses at this point and say that if you find that you can keep your statements brief, please do so, because there are so many questions that everyone wants to get to. Thank you.

**Mr. Matthew Hamlyn:** That greatly suits me, as I don't have a prepared presentation, apart from what I've written in the last 15 minutes during the sound checks.

It might be helpful if I explain what I'm doing in this context and then talk the committee through, very briefly, what we've done in the last four weeks, which has probably been the biggest set of changes to how the House of Commons works in the last 700 years.

I was asked by the Clerk of the House, John Benger, to coordinate all the different work streams that are going on to deliver what we are loosely calling "virtual Parliament". That's across the work of our select committees, the chamber coming on stream, electronic remote voting, and then beyond that the virtual legislation committees, which in our system are different from our policy-based select committees.

That's quite a lot of work. We've also had to liaise closely with our colleagues in the House of Lords, as we have a shared parliamentary digital service and a shared broadcasting service, which support both Houses. Those two teams have been under particular pressure in the last few weeks.

So, what happened? Just before our Easter recess, so late March, the House passed a motion allowing for select committees to meet virtually, that is, to allow participation by electronic means under the authority of the Speaker. The first virtual select committee took place two or three days after that. Appropriately enough it was the Health Select Committee, talking about the coronavirus with the health secretary.

Over the Easter recess, which was slightly longer than usual because of the pandemic, we had an increasing number of virtual select committee meetings. In parallel, the Speaker wrote to the Clerk of the House on March 31 asking him to ensure that by the time the

House returned on April 21, we had arrangements in place to allow for remote participation in questions to ministers and for statements by ministers in the House on the basis that members could participate either physically or virtually, which is why we are calling this a hybrid model or hybrid proceedings.

We worked exceptionally fast to work out whether this was possible, what was possible, and then to deliver it. We also worked in parallel with the government, the Leader of the House and the party managers to ensure consensus with what we were proposing, and the Speaker played a very active role in doing that.

We had to agree to procedural motions that were required to enable all of this to happen, so on our first day back, April 21, by special agreement with the Speaker, we chucked out that day's business and just agreed to motions moved without notice to enable what we call hybrid scrutiny proceedings to take place the next day.

The next day, April 22, so still not very long ago—like last week I think it must be now—we had our first virtual question time and virtual Prime Minister's question time. We then immediately passed motions to extend this hybrid model further to other classes of business, including legislation. We also agreed in principle to electronic remote voting so members would not need to come to Westminster to vote. We have now had four of what we call our hybrid chamber days. We've had the second readings of three bills on three days this week.

One thing I'd like to mention at this point in particular is that we've done everything with incredible speed, and that has been a real challenge for the House service and digital service. We have risen to this challenge, I would say, magnificently, and the Speaker and everyone else have said the same thing.

We've learned very fast completely new ways of doing things, and this is supported by large numbers of staff working remotely from their front rooms and rooms like the ones we're sitting in now, but it has also required a lot of staff still to come to the Palace of Westminster. They work in the broadcasting studios in the chamber because we have physical participation, and to some extent in committee rooms. It still does mean we have a lot of colleagues who have to come and work in the building.

We've had to be very frank with members about what is deliverable, both due to technical capacity and due to the human resource capacity of how long you can keep people for setting up. We have seen how much time colleagues spent on the set-up for this committee meeting. We are having to do that for maybe 60 members at a time for a full day's proceedings, and that's quite a large staff undertaking.

• (1110)

The other thing we've done is adapt practices. We've dropped large classes of business from our agenda for now, and we have dropped, for technical reasons, a lot of the traditional ways we do business. There are no interventions in speeches. We have published lists of speakers so that everyone knows who is coming next, so that the broadcasters know whom to queue in, and so that we know who is speaking virtually or physically. We've set much longer deadlines for members wishing to participate in proceedings, because we need to do all the planning and make sure their connections work, and all the rest of it. That's made a very big change to the feel of how things work.

It is also weird, I have to say, sitting at the table of the House in a chamber built for 400 people with 20 members present, with the member speaking beaming data, and eight large screens suspended from the galleries. I'm now wearing headphones at the table of the House, as is the Speaker's secretary, so that we stay in touch with the broadcasting team, who are in a different building.

I can't underestimate how big the cultural, technical and political change has been. The things that I would say are essential are consensus among the parties about what's happening and an agreement on what is doable, an agreement among the political parties on how we extend and build going forward so that we can do more of this in the medium term, and also really strong and effective leadership of the staff involved, to ensure that we, as very senior managers and leaders in the organization, can have those frank conversations with members about what we can and can't do, but also to ensure that we support and motivate our staff to keep on delivering this more or less impossible stuff.

The next big challenge will be electronic remote voting. Literally, as I speak, we are doing the first live test with several hundred members of Parliament. Planning for that has been.... Well, it's been interesting, I would say.

I'm very happy to stop there and answer further questions.

**The Chair:** Thank you so much.

Next up is Ms. Davies, please.

**Ms. Siwan Davies (Director of Assembly Business, National Assembly for Wales):** Thank you very much, Madam Chair.

Good afternoon from Wales, where the Senedd has been continuing to meet virtually since we had the lockdown here in the U.K.

I'd like to talk briefly about how we've made changes. I'll structure my talking under four headings: the political will that was required to have the Senedd continue to meet during these times, the procedural ability to do so in terms of the changes that we made and those changes that we did not need to make, how we got it up and running, and how we will keep it up. A lot of the points that Matthew raised are also pertinent to our experiences here in Wales.

First, where there's a political will, there's a way. Our Llywydd or Speaker and the First Minister of Wales were determined that the Senedd would continue to meet during the COVID-19 emergency. They decided that we would suspend our planned Easter recess and that the Senedd would continue to meet. That was for two reasons.

The nature of the devolution settlement in Wales is such that, at times like these, the assembly in Wales and the legislatures in the U.K. had agreed that certain powers would be taken up to the United Kingdom level for coordination across the United Kingdom. That led to an unprecedented situation where the U.K. Parliament was legislating for Welsh ministers to have powers to make subordinate legislation that would not necessarily require the approval of the assembly. The First Minister and the Llywydd were very keen that the Senedd could continue to meet to look into how that was going to happen in operation.

There was cross-party support for a continuation, so no members objected to this on the grounds of public health. By political agreement there was a smaller, emergency Senedd, a smaller number of members to come together to meet to continue business. This was all premised on physical meeting prior to the lockdown in the United Kingdom.

We indeed had a meeting of the Senedd in a smaller form, and at that time we agreed to a raft of emergency standing orders to enable the continuity of the business of the Senedd going forward. They included new recall provisions where the Llywydd could recall the assembly—hitherto it had been the First Minister who could recall the assembly—and a reduced quorum. The quorum for 60 members usually is 10, and we reduced the quorum to four, enabling business continuity in an extreme scenario.

• (1115)

**The Chair:** If I may, I feel very bad about interrupting you, but perhaps you could slow down just a little bit for the benefit of our interpreters. It's a little easier for them when they have speaking notes. They're trying to do simultaneous interpretation.

**Ms. Siwan Davies:** Okay.

**The Chair:** Thank you.

**Ms. Siwan Davies:** We also introduced weighted voting. Previously, there was no ability for any form of proxy voting, so we introduced the ability for block voting by groups of parties or individuals casting their own votes. We restricted public access to the building when it was open, and this enabled us to go online later on. We agreed to relax some of the requirements in the Standing Orders for questions to be taken on a weekly basis, and we had a provision for the functions of the legislation committee to be undertaken by the whole assembly, if that was necessary. Finally, we had provisions to elect a temporary presiding officer or a temporary chair of the proceedings in the event that the Speaker and the deputy were unavailable. Those provisions were agreed on, and that was all premised on physical meeting.

Post-lockdown, the business committee was keen that the Senedd continue to meet in virtual form, and there was no requirement for us to change our Standing Orders. The statute and Standing Orders here in Wales do not require any physical presence for meeting. There is no specification of a place of meeting, and there is no requirement for members to be present. Rather, they are required to participate, so we didn't need any additional provision for virtual meetings.

The only requirement we had that determined the practicality of certain mechanisms for virtual meeting was our statutory requirement to have bilingual proceedings, Welsh and English, which is similar to the situation you have for the need for translation. Therefore, we were able to continue to meet as a Senedd post-lockdown by turning to a virtual platform, and we used Zoom, as you are now.

We have had four meetings of the virtual Senedd. The first was on April 1. We were the first U.K. legislature to have virtual plenary proceedings. We have had four virtual meetings of the plenary, one per week, increasing the number of members who are participating. The first meeting was recorded. Subsequent meetings have been live. We've had voting online from the second meeting, and we had another vote yesterday by weighted voting. We've had various interesting procedural and other issues arise along the way, so we've been learning as we go along.

We've had virtual committees starting to meet from this week. We have had meetings of the health, education, economy and legislation committees. We're currently running a timetable of two committees on Tuesday, two on Thursday and the virtual plenary meetings on Wednesdays.

What enabled us to get it up and running, in addition to the lack of a procedural prohibition on meeting virtually, was the fact that we're a young institution. We're a small institution; we're unicameral. That means we're young, and our members and staff are used to working electronically in an electronic chamber. They're used to electronic committee meetings. We're small, and therefore, in contrast to Matthew's contribution, it's feasible for all members to participate, albeit, as you know, a bit of a challenge.

Because we're unicameral, all the staff work for the same organization. The ICT, broadcast and the clerks all work together, which I think has made it much quicker for us to be able to get up and running. I suppose it's just a can-do attitude. On a Friday, the business committee said they would like to meet virtually the next Wednesday, and we just made it happen. It was a bit of a challenge, but we got on with it. The challenges, I suppose, were mainly technical rather than political or procedural. There was a political will, and there was no procedural barrier, so it was just a question of making the technology work. We're using a licensed version of Zoom with the translation capability.

Going forward, I think the challenges for us, as for you and other legislatures, are ones of capacity. Once you have a system up and running, there's a demand to try to get all the business up and running again and, as Matthew just said, that's simply not feasible.

• (1120)

Also, as you will find, Chair, there are challenges around chairing virtual meetings, around providing advice to virtual meetings

when clerks and advisers are not in the same space as members, and also around maintenance of order in a virtual plenary. There are upsides and downsides to that. Clearly, there is the concern behind all of this that the technology will fail, that Internet connections fail, that the proceedings are at the mercy of some external providers to some extent.

I think the final challenge is trying to do business as usual in an unusual way: how we can flexibly apply different practices and procedures in the new normal, and then, going forward, how we move back to business as usual when we've had our experience of working online, and whether that leads to an increased appetite for online delivery of assembly businesses going forward.

That's our experience here in Wales. I'm happy to answer any questions.

**The Chair:** Thank you.

That was very enlightening, and there are a lot of similarities to what we've been trying to do in the meantime right now, temporarily.

Next up is Mr. McCowan, please.

**Mr. Ian McCowan (Deputy Secretary to the Cabinet, Governance Secretariat, Privy Council Office):** Thanks very much, Madam Chair.

Members of the committee, I never thought I'd get a chance to appear in front of a parliamentary committee from my dining room. There can be no doubt we're in some interesting times. That said, it's an honour to appear to try to sort through how best to approach the pandemic.

I've been asked to provide some remarks as part of a panel from some other jurisdictions, and I'm going to try to fit into that framework by focusing my remarks on three areas: first, how government business has adapted; second, how cabinet has adapted; and finally, how parliaments seem to be adapting, particularly ours.

In each of these areas, I'm going to try to draw on what we're seeing in provincial and international experiences. Clearly, different jurisdictions are adopting different approaches suited to their own particular context. That said, comparisons are always helpful, and I'll do my best to sketch out a few that may be of interest.

I should say at the outset that all jurisdictions have slightly different parliamentary traditions, and they're in slightly different positions combatting the virus. We're all trying to figure out how to find the best path forward and stay true to our democratic traditions. I should also say at the outset that, from a governance perspective, it seems clear that all levels of government in Canada have come together collaboratively to combat COVID-19.

Before I turn to Parliament, I have a couple of comments on government operations. They are going to have to be, of necessity, comments at a high level. The story of the pandemic is still being written, and governance energy is still focused on managing it. Once we get through the pandemic and the smoke clears a little bit, there will undoubtedly be a chance for the world to look at lessons learned from this extraordinary crisis. In that context, I note that in addition to this committee's examination of the ways and means of how the House can now meet virtually, there are now, after yesterday, seven House committees authorized to undertake reviews of the effectiveness of government measures to address the pandemic, and in like manner, the Senate has authorized both the finance and the social affairs committees to study the implementation of COVID-19 measures. The Senate is also going to have a special committee do a retrospective study in the fall.

● (1125)

Even at this early stage, it is already apparent from a public service perspective that the pandemic has forced an acceleration of some existing trends that we had in government operations. Nowhere is this more apparent than in the use of technology to work remotely. Literally overnight, work groups across government, like most of their private sector peers, have been required to work from home. This acceleration of existing trends is a huge, unplanned experiment in teleworking and video conferencing. Of course, it's too early to determine conclusively the emerging best practices from the experiment, but some early returns from it seem promising, with potential implications not just for continuity planning but more generally for how government goes about its business day to day.

As with a lot of the innovations that are taking place, we're going to have to do lessons learned reviews to see what practitioners feel are the lessons that can be pulled from the new technology. This might be particularly important in terms of organizations with a national footprint that need to be connected regionally but also, most importantly, with their citizens.

On government services, public service has needed to operate in new ways to match the urgency of the crisis in order to get desperately needed supports out the door. That is happening.

Governments throughout the world have been challenged to transform their practices in such areas as improving health care systems, delivering supports, speeding up procurement, engaging the public, securing borders and ramping up coronavirus testing. There are best practices emerging in all these areas. Some of the best practices will be Canadian, but it would be myopic if we limited our learning experience to our own borders, even if you add in the very good examples of excellent provincial and municipal innovation in Canada.

In the race to speedily identify best practices, the Organization for Economic Co-operation and Development is an important source of good ideas. As they did following the great recession of 2008, the OECD is assessing country practices in response to COVID-19 with a view to identifying best practices to inform government decision-making. They've already developed a country policy tracker, which charts the actions of more than 90 nation-states to combat COVID-19. In addition, they've developed 12

streams of work to assess country responses for issues such as resilient health care, inequalities and social challenges. This is a good example of the type of international experience and lessons learned exercises we're going to be following closely.

In regard to cabinet, approaches to conducting cabinet business have also been agile. Since the outset of the pandemic, including the need for the Prime Minister to self-isolate in March, cabinet operations have changed in a number of ways.

On March 4, the Prime Minister created the cabinet committee on the federal response to the coronavirus disease, or the COVID-19 committee. This committee is chaired, as you know, by the Deputy Prime Minister, and it has been very active. Their meeting rate has been higher than the norm for a cabinet committee, in keeping with the nature of the crisis we're facing. Another important feature from a governance perspective has been the government's extensive use of first ministers' meetings to ensure a close link and collaboration with the provinces, in addition to innumerable bilateral discussions. This helps ensure a national integrated response, as different orders of governments have managed to work very successfully together.

In terms of full cabinet operations, they've had to rely on technology, as have all other organizations in society, given both the realities of social distancing and the challenges that all of you face as parliamentarians from across the country.

For parliaments around the world, many of the same issues are arising. All jurisdictions are trying to think through the implications of COVID-19 for their operations.

I'm going to touch on four key issues in terms of what seemed to be commonalities across the board: reduced sitting times and frequency, implementing social distancing, passing emergency legislation, and the use of virtual meetings.

First, it's interesting to note that most legislatures in Canada and around the world responded to the onset of the COVID-19 crisis by adjourning or reducing hours, thereby adhering to the medical guidance. This includes all provincial legislatures that were in session at the time. For those provincial legislatures that were not in session when the virus hit, the Speaker made a determination to adjourn, as happened in P.E.I., where the Speaker cancelled the spring session. All provincial legislatures stand adjourned.

● (1130)

Another common feature of the federal, provincial and international response has been to consider emergency legislation. As you know, this happened at the federal level with the passing of Bill C-13 and Bill C-14, and again this week with another bill. It also happened in Alberta, with the passing of Bill 10, the Public Health (Emergency Powers) Amendment Act. Passage of emergency legislation has occurred in other provinces. Ontario—

**The Chair:** Sorry. You have so much experience and so much to share that I hate to interrupt, but there is a problem with interpretation being able to hear you clearly right now, and there is probably not much we can do about that. If you could just slow down, it would really help. Pause at the end of each sentence so that they know they're getting an accurate interpretation.

**Mr. Ian McCowan:** No problem. I'll slow down. I was just mindful of the precious time limitations, but I will slow down.

**The Chair:** Thank you.

**Mr. Ian McCowan:** The passage of emergency legislation has happened, as I mentioned, right across the board provincially—in Ontario, New Brunswick, Saskatchewan—and internationally you're seeing it in New Zealand, Australia and the United Kingdom.

I'll give you a couple of points of comparison in other Westminster parliaments. On March 25, the New Zealand Parliament met with a reduced number of MPs. They received and debated a formal epidemic notice from Prime Minister Ardern, and at that time they passed some COVID response bills.

Australia's House of Representatives last met on April 8, with a reduced proportional number of representatives. The purpose of the sitting was to pass supply and some bills for COVID-19, and then, following the adoption of these measures, the House was adjourned at the call of the Speaker. The Australian Senate met later that day, passed the legislation, and then they, too, adjourned.

What you're seeing—and this won't be a surprise to committee members—is parliaments doing what they do well, which is, in times of crisis, trying to figure out how to adapt to and address matters of public urgency in a timely and effective way. It's a strong tradition in Westminster parliaments.

The public service has also tried to adapt in its interactions with parliamentarians. A good illustration is the daily call with parliamentarians that's led by the Public Health Agency. Since these calls started on March 16, they have become an important conduit for information.

I'll give you just a couple of quick metrics. There have been as many as 226 parliamentarians on that call, with an average attendance of about 141 each day, and there have been 91 MPs and senators who have asked questions. These questions have originated from representatives from every province and two territories. The public service effort to support the call has had about 18 departments and agencies involved.

For those working in the group focused on governance, it won't surprise you to learn that we're very interested in seeing what responses your committee comes up with in response to the motion the House adopted on April 11. The issues you're grappling with are being faced around the world, and the solutions you come up with, frankly, might be of interest to other jurisdictions.

I have just a couple more comments. In order to respond to social distancing, there have been sittings of legislatures with reduced proportional attendance and shortened sessions, often one-day sittings, to deal with emergency legislation. That seems to be the pattern. Legislatures at the provincial level that have adopted these

practices include B.C., which met on March 23 to address the crisis and pass supply. Other provinces that have adopted sitting practices consistent with social distancing are New Brunswick, Newfoundland, Ontario and Quebec. Internationally, these practices are seen all over the place in England, France, Germany—the Westminster countries.

The continuation of committee business is another point that seems to be a commonality. Virtual meetings like the one we're having right now seem to be a very common feature of various legislatures. For example, it's the case in Quebec and it's the case in a number of international jurisdictions—Argentina, Spain, France, Luxembourg, the EU, New Zealand and the U.K.

Madam Chair, I think I'll leave it there in the interest of time. I apologize for the sound being wobbly, but I am happy to answer any questions, and I'll leave it at that point.

Thank you.

**The Chair:** Thank you very much.

Next up we have two witnesses from the Scottish Parliament—David McGill, clerk and chief executive, and Bill Ward, head of broadcasting.

Mr. McGill, I believe you have an opening statement to make.

● (1135)

**Mr. David McGill (Clerk and Chief Executive, Scottish Parliament):** Yes, thank you, Chair, and I'll maybe ask Bill Ward to say a few words just at the end.

Thank you for the invitation to give evidence. I'm delighted to contribute to this discussion on behalf of the Scottish Parliament.

Bill Ward is our head of the broadcasting service, and his team has been completely instrumental in enabling us to support the Parliament in continuing to meet during this time. Bill will be able to answer questions of a technical nature that will be beyond me.

Just initially, by way of background so that you can understand the context in which we've been trying to meet these challenges, I will say that the Scottish Parliament, like the Welsh assembly, is a unicameral Parliament. We have 129 members. We currently have 19 committees, consisting of between five and 11 members. The Parliament normally meets in plenary session on Tuesday, Wednesday and Thursday afternoons, with committees meeting those mornings. Voting is normally done in plenary session by electronic means, using consoles on each member's desk. In committees, voting is by show of hands.



In terms of decision-making, the Parliament's "House Commission" is known as the Scottish Parliamentary Corporate Body, or SPCB. It's chaired by our speaker, the Presiding Officer, and has a representative of each of the five political parties that we have. On the business side, the business committee is called the "Parliamentary Bureau", which is also chaired by the Presiding Officer and consists of the party whips. This is where the majority of the decisions and discussions have taken place about when and how and indeed whether the Parliament and its committees meet during this pandemic.

Turning to our response to the pandemic, public safety measures, including lockdown, were introduced on March 23 by the U.K. government and were adopted by the Scottish Government. As with other Parliaments and organizations, we already had business continuity plans, but we just never imagined that we would have to implement rules on the scale that we subsequently have.

Prior to full lockdown, we had taken some early actions, such as ceasing parliamentary events, tours and access to the public and so on. With lockdown in place, we took the decision to close the building to all but essential maintenance staff on non-sitting days. That included those members who use their parliamentary office as their constituency office. We gave early advice to members about how to go about closing their local offices and how to engage with their constituents remotely.

Turning to parliamentary proceedings, our strategy from the outset has been to continue to meet in some forum to hold the government to account. The Parliamentary Bureau shared our view that it was more important than ever that our democracy continue to function at this time.

On April 1, Parliament met physically to consider the methods of legislation that we've just been hearing about—in our case, the Coronavirus (Scotland) bill. This meant having to consider all stages of the legislation in a single day. Because this bill was considered in the chamber, we wanted to observe social distancing arrangements, so we reduced the number of seats available from 129 to 79, and we configured them in such a way that we met the social distancing requirements. A proportional share of those 79 seats was given to the parties.

That said, the Presiding Officer was still reluctant to go as far as barring any elected member beyond those who turned up to attend proceedings, so we also made arrangements for voting to take place in the vicinity of the chamber, and not just at the seats as normal. As it transpired, we didn't require those extra arrangements, because at no point did more than 79 members turn up.

I'm pleased to say the arrangements worked well and the bill was passed that same day. While we were meeting that day to pass that legislation, we also took the opportunity to elect an additional Deputy Presiding Officer in case any of our other three Presiding Officers couldn't undertake their duties, particularly because one of them was already self-isolating due to her age.

At the same time as we were continuing to stage physical proceedings with reduced members, we continued to work on how the Parliament could hold the government to account without physically meeting. Bill and his team worked around the clock to investi-

gate different platforms and liaised with procedural colleagues on what might work for us. Our international relations office also undertook a considerable amount of work in identifying what other legislatures were doing.

- (1140)

The immediate result of that was that on April 9 we staged our first leaders' virtual question time, where party leaders had the opportunity to question the First Minister on the Scottish Government's response to the outbreak, all conducted on a video conferencing platform. The session involved a short opening statement from the First Minister on the latest developments, before opening to questions from the four opposition party leaders. We streamed it live on the Parliament's television service, and the BBC also carried it live. It was also covered in some form by several other broadcasters.

This was our first step, but we recognized that it was limited to party leaders, and other members should also have the opportunity to question the government, so we arranged two subsequent sessions the following week, consisting of leaders' virtual question time as a first session and the members' virtual question time as a second session, where up to 20 members had the chance to put questions to four different cabinet secretaries.

I think it's probably important to say that these first few virtual question times were informal meetings to allow members some access to ministers. Despite looking and sounding like formal parliamentary proceedings, we weren't governed by our Standing Orders and, therefore, they don't qualify as formal parliamentary proceedings. That said, an official report, our Hansard, produced transcripts of these virtual question times, and we published them on our website alongside other official reports or proceedings.

We have also now established a specific ad hoc committee to scrutinize the government's response, and that committee held its first virtual meeting on April 23, last week. This committee has been established to complement, rather than replace, the work of other committees, which are all keen to continue to meet.

As mentioned, our focus and efforts have been aimed at finding ways of ensuring that members can scrutinize the government within the bounds of formal proceedings. Standing Orders changes, now agreed to, enable formal committee proceedings to take place on a virtual platform and also enable formal virtual meetings of the Parliament. Unlike the Welsh assembly, our Standing Orders did restrict where the Parliament could meet, so we had to change our Standing Orders to allow the Parliament to meet either in its normal debating chamber or in a virtual debating chamber, and we did the same for our committees.

For voting, we've also changed references in the Standing Orders from "the electronic voting system" to "an electronic voting system". That's a small but important change, because it allows us to adopt any system that can be used remotely. Similarly, for committees, we've changed the rules there to make sure that they can operate on any platform that we provide.

To bring you right up to date, on Tuesday of this week, the Parliament met again physically in the chamber. A number of points of order were raised by members about the lack of opportunities to ask questions and also about our plans for remote participation. We recognize these frustrations and, as a consequence, we're increasing the time allocated for questions to the First Minister next week. We're holding additional virtual sessions. We're looking to stage sessions that do allow all members to participate, not just those who are listed to ask a question. We're also expanding the number of virtual committee meetings to meet demand and are planning to test options for remote voting and remote participation in business at Holyrood, in other words the hybrid proceedings that have been mentioned earlier as well.

Looking ahead, like others, we still have a number of challenges before us. The main ones are how we scrutinize legislation, how we stage online debates and particularly how we vote. As others have said, that's the biggest challenge that we still have to resolve. I'll be really interested to hear how the tests that Matthew mentioned earlier go today.

Our Parliamentary Bureau, unlike the Welsh assembly, has rejected block voting quite firmly, and it's currently taking soundings from members on proxy voting. The response so far to that consultation has been mixed, with even many members who are in support of proxy voting qualifying that support by saying that they don't want party whips to have a role in exercising proxies. We have some way to go to get a system that can be agreed to by members, and that leaves us trying to identify and test a system of remote voting that is secure and allows votes to be conducted quickly and be properly recorded.

• (1145)

Madam Chair, I would now like to hand it over to Bill, who will very quickly say a few words about the technical approach we've taken. After that, Bill and I would be more than happy to take questions.

**The Chair:** We have very little time, so could you take about a minute?

**Mr. Bill Ward (Head of Broadcasting, Scottish Parliament):** Sure.

**The Chair:** We will certainly get to you in questions.

**Mr. Bill Ward:** Thank you, Madam Chair and David.

Trying to broadcast colleagues from across the world has placed a huge demand on the staff. We have a small department of nine technicians, and we've had to bring ourselves up to speed very quickly to find ways to support members and look at their user issues, while also understanding technical issues, connectivity issues and equipment and how to resolve those problems with members.

Our strategy has been to start small, as quickly as we possibly can, using the experience we had at each meeting and then debrief. This has allowed us to scale up week by week. We decided not to use Zoom in consultation with assemblies in Europe. Instead we've used a combination of a virtual vision mixer platform called vMix and another similar video conferencing system called BlueJeans. I can talk more about them if you find it useful.

There are two principles we've worked on. One, wherever possible we have kept all operators out of the building and working at home, and all the virtual meetings are operated in this way. Two, we have a very small skeleton staff working in the building when we are actually on the premises.

The other service we felt was very important to keep running during this time is the British sign language service. All our key proceedings have been signed virtually. We've had a lot of feedback from the deaf audience, and we realize the importance of keeping them informed at this time.

That's all I will say for now, and I will take questions.

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

We will begin our questioning with a six-minute round.

MP Duncan, please.

**Mr. Eric Duncan (Stormont—Dundas—South Glengarry, CPC):** Thank you to our witnesses for the great information and for joining us. I know you have a lot on your plates so to make time for us is much appreciated.

I want to start with the Welsh assembly and the interpretation aspect, because we had a good discussion on that last night and are going to be continuing that conversation.

Ms. Davies, just to clarify, in the Welsh assembly you don't have bidirectional translation, right? It's from Welsh to English. Could you talk about your staffing requirements for that? Are you having the challenges that we're hearing about, the audio issues and health and safety issues?

**Ms. Siwan Davies:** Yes, I can confirm that we have translation from Welsh into English. We don't have it from English into Welsh.

**Mr. Eric Duncan:** It's not bidirectional.

**Ms. Siwan Davies:** No, that's right.

For usual plenary committees we would have more than one translator and they would swap over, but because we've been trying to keep our plenary sessions limited to a three-hour slot, we have one translator performing the role. It's the same thing for committees. Therefore, I suppose we are mindful of the pressure on the staff not only in terms of ICT and broadcasting, but also in terms of translation. We have managed to hitherto accommodate that within our existing staffing, and our translation staff are working from home.

With regard to the technology, we seem to have made it work. We're using the Zoom platform, and the interpretation is the way you have it set up here. I think for us, when you only have it going in the one direction, it makes it easier.

We did find in initial testing that there were some issues with people not using headsets. There was some feedback from translation and the non-translated feed, but we resolved that. Thus far it has worked remarkably well. The only issues we've identified have tended to be user error and not something more generic to learning the new technology.

**Mr. Eric Duncan:** It's good to know we're not the only ones going through challenges with that.

Mr. Ward, I want to pick up on something you mentioned about Zoom. You mentioned that you decided, along with some other European assemblies, not to proceed with Zoom. Could you elaborate? Is it because of technical capabilities or is it security concerns? What exactly was the concern? We've had a lot of comments about Zoom. What was your reasoning behind that?

• (1150)

**Mr. Bill Ward:** It was mainly around security concerns.

A number of video conference platforms offer pretty similar functionality, and at the time there was quite a lot of press going on around concerns about Zoom. Our cybersecurity experts said there was no particular increased risk for Zoom than any other platform—they all have similar vulnerabilities—but one of the things was about pre-empting concerns that members may have had about using this platform at a time when it was receiving quite a lot of adverse press.

**Mr. Eric Duncan:** Thank you for the information.

Mr. Hamlyn, one thing I find interesting about the U.K. Parliament is the physical set-up of the House of Commons with its 650 MPs. The physical capabilities of the chamber allow only about 425 members to be in there. There are actually some restrictions physically in normal times for members to be in the chamber.

My understanding, from what you're doing now, is that there is a limit of only about 120 MPs on the virtual side. Is that a technical or a procedural challenge right now in terms of that on the virtual side?

**Mr. Matthew Hamlyn:** The 120 figure is our starting point for what we thought we could most easily manage over the course of a two- to two-and-a-half-hour session. To be honest, I wouldn't say it's an arbitrary figure, but we had to start from somewhere. In the average two or three hours of a House of Commons session, you wouldn't normally get to 120 members. You might do, but it's main-

ly a technical limitation. Likewise, the limitation of numbers of members physically in the chamber, which is around 50, is based on the physical distancing measures we've put in place with signage, blocking off some seating, and so on.

They're both driven, in effect, by logistics.

**Mr. Eric Duncan:** Just for context, how many days a week is the U.K. sitting physically in the chamber right now? Is it five days a week, a couple of days a week, or something else?

**Mr. Matthew Hamlyn:** The House of Commons is sitting three days a week, as is the House of Lords. For complicated reasons, we're sitting Monday to Wednesday and the House of Lords is sitting Tuesday to Thursday. We would normally sit four days a week, and occasionally five days a week. We're also sitting for shorter periods on those sitting days, at the moment.

**Mr. Eric Duncan:** Noted.

Since the physical distancing requirements have been put in place, have things been going okay from a safety perspective? Are you hearing a lot of grievances? Have the physical aspects with the social distancing changes been okay so far?

**Mr. Matthew Hamlyn:** Certainly in the chamber the attendance has been very low, even for the Prime Minister's questions. We've had very good co-operation from the party whips. People are behaving themselves. Lots of traditional behaviours, like coming to chat with the clerk at the table or to talk with the Speaker, people have realized they shouldn't do. Members had some quite bad publicity towards the end of this session, just before the Easter recess, when lots of photographs in the media showed members clustering around or huddling together. This clearly was not ideal, and that's now not happening.

**Mr. Eric Duncan:** Thank you.

I have a last quick question on voting.

I follow some U.K. MPs on Twitter, and in looking at the testing that's going on, as you speak right now, are there any other options being considered besides electronic voting, such as pairing, proxy or weighted voting, or is electronic voting the only method you're looking at right now?

**The Chair:** Please be quick.

**Mr. Matthew Hamlyn:** We already have proxy voting available for members on parental leave, so theoretically one could extend that to other members, such as members who are ill or for whatever reason. We already have pairing. That was an option, but it's not very transparent if you have 400 members who are apparently not voting at all because they're paired with each other. No one has suggested weighted voting to us. Remote voting is what we've been asked to try to make work.

I think our procedural people—

**The Chair:** Thank you.

**Mr. Eric Duncan:** Thank you. I appreciate it.

**The Chair:** Next we have Mr. Turnbull, please, for six minutes.

**Mr. Ryan Turnbull (Whitby, Lib.):** Thank you, Madam Chair.

Thank you, everybody, for being here.

It's a real pleasure to have the opportunity to listen to some of what has been learned in other jurisdictions, which I think to some degree parallel our Parliament here and how it functions. I've learned a lot already from what you've shared. I really appreciate your taking the time to share that learning with us.

Ms. Davies, I really appreciated your overview and the speed, I think, at which the Welsh legislature moved forward on making quite a few changes. I wonder if you could maybe briefly list what areas and aspects of Parliament have already been quickly adapted to a virtual format.

• (1155)

**Ms. Siwan Davies:** I suppose the main thing is that the plenary has continued to meet. I suppose we took it a different way around from many legislatures, where the business committee took a decision that it would continue the business of the plenary in preference to the committees. We allocated our resources towards virtual continuation of the business, where the first minister and ministers could be scrutinized and where we could continue to pass legislation.

The concern was that we didn't want to establish committees that didn't have the full functionality of the assembly itself. I suppose, because we're small, we were able to make it happen in a way that perhaps would be more of a challenge for larger legislatures.

We have retained the ability for all members to question the executive. That was the principal driver, as well as to just ensure that we could continue, where it was applicable, the legislative program of government. That was, of course, primarily COVID related. Also, it was to continue with the statutory requirements of the assembly, and to an extent, any time-critical business. We foresee in the coming period some matters that are not COVID related that we will need to get through. That was our priority, first, to ensure that could continue.

Second, committees, now, this week, have started. There was pressure placed on the business committee to reactivate, if you like, the committee business. Effectively, the pause we had would have reflected the Easter recess, in any case. We've tried to prioritize those committees that are scrutinizing the ministers responsible, primarily, for the COVID response and to enable stakeholders to come and assist the committees to undertake that scrutiny function.

In summary, what we kept going was the plenary and scrutiny in relation to COVID and legislative functions.

**Mr. Ryan Turnbull:** Thank you for that overview. I really appreciated your opening statement that where there's political will, there's a way. It seems to be true in all cases.

I want to ask Mr. McGill a related question about the Scottish Parliament and the changes that have been implemented.

It's clear to me that you've been on a path, moving closer to being able to, in a sense, replicate or have formal proceedings again. You mentioned that there were changes to the Standing Orders. I wonder if you could go into a little more detail as to what specific changes were made or need to be made, whether agreement has been sought and how quickly that agreement was achieved by parties.

**Mr. David McGill:** To do the last part of your question first, we didn't experience a great deal of difficulty in persuading the political parties to agree with what we were planning to do. That wasn't an issue for us.

In relation to the Standing Orders change, we did anticipate there would be more changes that we would have to make. What we went through, for our Standing Orders, was a comprehensive review. We found there really were only about three or four different rules we would have to suspend or vary in order to allow Parliament to begin to meet virtually and to do things differently.

I think I mentioned the rule we had that parliamentary meetings must take place in the debating chamber, in our physical building in Edinburgh. We had to veto that rule to allow us to meet in a virtual space. As well, we don't have any rules about quorums, except for a very few minor legislative requirements, so there were no adjustments that had to be made there. In those regards, where there were requirements for quorums, the political parties were keen that we protected them. They didn't want to go below the numbers that were statutorily required for particular decision-making.

Probably the biggest issue we had was with the length of time that we would make these variations for, and that's only because we were working at high speed. We made these changes, and I think I can quote my saying that we put them through for the duration of the public response to the novel coronavirus COVID-19, but we very quickly realized that it wasn't going to be clear when that public response would come to an end. We went back again and we adjusted that in line with the emergency legislation and some of the sunset clauses that are in there. We have now restricted it to some-time during the summer, when we'll review again. We do give the Parliamentary Bureau and the Presiding Officer power to extend it rather than having to go back through the process of making the changes in Parliament again.

• (1200)

**The Chair:** Thank you. That's all the time we have.

Next we have Ms. Normandin.

[*Translation*]

**Ms. Christine Normandin (Saint-Jean, BQ):** Hello, thank you very much.

My first question is for Mr. Hamlyn. I want to clarify something in case I misunderstood.

You referred to a hybrid Parliament. Does that mean it's exclusively virtual for a set amount of time and exclusively in-person for another amount of time, or are both happening at the same time?

[*English*]

**Mr. Matthew Hamlyn:** It's the latter. Both are happening at the same time, so for proceedings in the chamber, members can participate in the same proceeding either virtually or physically. Our select committees are meeting entirely virtually at the moment, but the chamber is mixed.

[*Translation*]

**Ms. Christine Normandin:** I'd appreciate it if you could tell me more about how the hybrid Parliament works, like how members are recognized and the technical details. I find this fascinating. It might even help uphold parliamentary privilege for all members.

[*English*]

**Mr. Matthew Hamlyn:** Logistically, it means we have to plan further ahead. Members who wish to take part in a debate or a question period need to let the Speaker's office know much further in advance so we can prepare a fixed speaking list that is published each day sharing all the members who will be called to speak in the order in which the Speaker has arranged for them to be called. We stick to that speaking list, except of course where a member is unattainable for a technical difficulty, where we may have to take them off the call and insert them in the list later on.

A debate in the chamber will switch between a member who's physically present in the chamber and a member who is virtual. It's that kind of mixture.

Privilege makes no difference at all, yet we are content that all these are parliamentary proceedings and any member taking part, whether speaking virtually or in the chamber, is covered to the same extent by parliamentary privilege.

[*Translation*]

**Ms. Christine Normandin:** Thank you very much.

My next question is for Ms. Davies, but the other witnesses are welcome to answer it as well.

I know that some parliaments have extended their hours in order to hold more sittings. If I understand correctly, you sit about once a week. Do you and the members feel that's enough for the moment to ensure accountability?

[*English*]

**Ms. Siwan Davies:** I think to begin with that members were keen to continue proceedings. When other legislatures were not meeting at all and were suspended or adjourned, we continued to meet.

Now that it has proved to work technologically and procedurally, there is increased pressure from members to meet, and as I mentioned earlier, as a response we are now having meetings of committees and plenary, not just plenary.

I think, as our Llywydd said when asked, it's not how you would prefer to be conducting things. One would prefer to have all the proceedings as usual but it's as much as we can do to support proceedings at all in the current environment.

I think there will always be pressure from members to have an increase in business as there is during normal times. There is pressure from many members for more sittings and pressure from others for fewer. But to answer your question, yes, less time is being spent on assembly business than there would have been. However, we are perhaps more concentrated and focused on the scrutiny of the government in relation to COVID-19 and to our legislative functions.

• (1205)

[*Translation*]

**Ms. Christine Normandin:** Thank you so much.

My next question is for Mr. McCowan. It's about the discussions among members, which unfortunately aren't translated, so they aren't bilingual. That makes it a little harder for unilingual francophones to follow the discussions and for unilingual anglophones to understand French questions and answers.

I'd like to know if efforts will be made to make the briefings more bilingual.

[*English*]

**Mr. Ian McCowan:** Thank you for the question. Obviously, it's critical to going forward that whatever path is found does respect the country's official languages.

In terms of exactly what form that takes, I would defer to the work your committee is doing. I think the House, quite rightly, has asked your committee to fashion some suggestions. The question that you pose, I think, goes to the heart of how the House organizes itself and its business. I would respectfully defer to the deliberations of your group in terms of how best to address that.

**The Chair:** Okay. That's all the time we have.

Next up is Ms. Blaney.

**Ms. Rachel Blaney (North Island—Powell River, NDP):** Hello, everyone. It's amazing that we're meeting together in this way all across the planet. Thank you so much for being here.

My first question will go to Mr. Hamlyn.

One thing we've had discussions about, particularly in our meeting yesterday, was how to make sure that, when we're meeting in camera virtually, we have the ability to protect our members. Are you doing any work to make sure that in camera meetings and the content of their information are kept safe?

**Mr. Matthew Hamlyn:** I assume we are talking about in camera meetings of committees because our plenary chamber, obviously, does not meet in camera.

It's a really live issue. The strong advice from our parliamentary information authority, who are the people who look after our information security, digital and physical, strongly advised the Speaker and the Lord Speaker that private meetings of committees, or indeed any confidential business, should be conducted using Microsoft Teams, which is regarded as much more secure than some of the other video conferencing systems, like Zoom. We're using Zoom for our broadcasting. We are using Microsoft Teams for private meetings of committees. That's inconvenient for committees, which have to switch between different platforms between private and public, but that's the very strong advice we have had. That's been endorsed by the Speaker.

**Ms. Rachel Blaney:** Mr. Hamlyn, you mentioned that all parties are collaborating. I think that here in Canada all of us can see there is a sense of collaboration among parties as we negotiate this very challenging time. One concern I have is that right now we're in a minority government. If we were in a majority government, I'm not sure whether those processes would roll out in the same way.

Could you speak to what that collaboration looks like and how we could keep that collaboration safe, regardless of whether we were in a minority or a majority Parliament?

• (1210)

**Mr. Matthew Hamlyn:** That's a very good question.

In Westminster, we have a government with a majority of 80, having had quite a long period of minority government. This has meant, obviously, that at the end of the day if the government wanted certain changes to procedure, it could get them. The government could table the relevant motion and force it through. That's not been the approach. There's been a lot of very thorough consultation between parties.

It is noticeable, to give a very live example, in the testing, which a colleague mentioned earlier, of our electronic remote voting. We've been doing that. We've been trying to reach out to members to ensure as many as possible take part. We've been collaborating very closely with the whips of all the main parties to ensure that happens. They've all been very happy to help. Obviously, it's in their interest, as whips, to make sure that members are able to vote.

I think that so far it's gone well. We may see difficulties as pressure builds, as I think Siwan mentioned earlier. As members want more and more business to be done, if we start saying we have a limited capacity, the opposition will say to the government it would like some opposition time rather than doing just government legislation. That's where we might start getting difficulties. We will be under pressure to make more time available in order to allow a wider range of business. We will do that when we know we have the capacity to do it.

So far, I haven't really seen that happening. There are very good relations, as far as I can see, between the Leader of the House, who's in charge of parliamentary business as a minister, and his shadow.

**Ms. Rachel Blaney:** Thank you so much for that.

Mr. McGill, you talked a bit about having a continuity plan. I'm wondering if you can talk a bit about what that is.

One of the discussions we've had in this committee has been about making sure that whatever recommendations we're sending, they really look at how we can adjust to any kind of occurrence that may happen in the future for this. Was there a baseline plan that you were able to implement moving forward or did I mishear you?

**Mr. David McGill:** No, I don't think you misheard me. We did have existing business continuity plans, in line with the standard plans that I think a lot of legislatures and other businesses have, and just by outrageous coincidence.... There are different aspects of business continuity plans and different scenarios that might unfold, and the coincidence was that as recently as December we had rehearsed our response to a pandemic. I have to qualify that by saying that in no way did we anticipate just the scale of this pandemic.

The purpose of that exercise was to see how we would descale parliamentary business, how we would identify which of the services that we provide as a parliamentary service were absolutely crucial to the continued ability of Parliament to meet, what the absolute minimum number of staff would be needed to deliver those services and how to support home working.

Those were the things that we had got down to a fair level of detail, which gave us some comfort when we started to respond to the unfolding pandemic, but obviously this has taken us to a scale that we didn't anticipate, so we hadn't gone as far as rehearsing remote plenary sessions and remote voting and things like that.

**Ms. Rachel Blaney:** Thank you.

**The Chair:** That's all the time we have. We're going to start our second round of questioning.

I was wondering if I could get agreement up front to change the four five-minute rounds to four minutes each, and then the two 2.5-minute rounds to two minutes so that we can get everybody in with in this panel. Is that okay?

Okay.

Mr. Richards, you have four minutes.

Ms. May

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Madam Chair, I have a question that I would like to ask, but I know you're tight for time, so I'll just wait and see if there's any chance.

**The Chair:** I think the Bloc might be willing to give you some time.

[Translation]

**Ms. Elizabeth May:** Thank you, Ms. Normandin.

[English]

**The Chair:** Mr. Richards, please, for four minutes.

**Mr. Blake Richards (Banff—Airdrie, CPC):** Madam Chair, I'll start with our friends from the U.K.

I saw a news article yesterday about the House of Lords, with your live streaming and the online broadcast that was happening. I guess it was on Wednesday. The personal cellphone numbers of a number of them were read out on the live stream that was broadcast as they either joined or left the session. It forced the proceedings to be halted, I guess.

My understanding was that the intention was to try to get things up and running again for Thursday. I guess you can tell us whether that actually did in fact happen. I understand as well that next week there's an intention to move over to more of a TV-quality broadcast through Zoom.

I wonder if you can give us an update on this. Tell us how this occurred, what kinds of problems it caused and whether they have been rectified, and whether broadcasting has now happened again.

● (1215)

**Mr. Matthew Hamlyn:** I will do my best, because obviously I work for the House of Commons rather than the House of Lords, so I don't have all the details. Maybe through the clerk I can send something in writing afterwards.

**Mr. Blake Richards:** Sure.

**Mr. Matthew Hamlyn:** My understanding is that this was a problem that arose from a particular feature on Microsoft Teams, which actually, ironically, was a security feature. If you're running an ordinary conference with Microsoft Teams, you can have a feature that announces who is doing the meeting. Normally, it would be their name, but if someone has not registered their name, it will read out the phone number of the person who is joining.

This had been disabled in the configuration that was being used for the broadcast. For reasons to do with where Microsoft puts its systems, I think they had been moved somewhere overnight and that change to the feature had been put back to the factory settings, as it were, which didn't become clear until they were actually in session.

My understanding is that apart from everything else, the chief executive of Microsoft has written to the Lords Speaker to apologize. That there has been a technical data breach of the House of Lords, I think is being referred to the information commissioner. They are switching to using the Zoom platform next week, so that particular issue has gone away, although, as a colleague from Scotland, I think, said earlier, all video conferencing platforms probably have some security aspects to them. The Lords certainly is back on track now, but as of next week, they'll be using exactly the same approach as the Commons.

**Mr. Blake Richards:** Thank you. I appreciate that.

Mr. McCowan, my understanding from news reports is that Zoom hasn't been approved for any government discussions by the Communications Security Establishment. Yet here we are with the government having pushed forward with a virtual Parliament that uses Zoom.

Those things really do seem a little out of sync, from my perspective. I want to get your perspective on that.

**Mr. Ian McCowan:** I should start by telling you that I'm not a security expert and I don't have a good factual basis to respond to your question. However, if it's the will of the committee, I'd certainly be willing to talk to my colleagues in the security area and get you the latest on the government's perspective on that.

**Mr. Blake Richards:** Sure, but let me just ask you, are you aware of these news reports? Are they accurate? Is that what the Communications Security Establishment...?

I understand you're not an expert, but you obviously would rely on their advice. If the Communications Security Establishment is in fact saying that it's not approved for government discussions, why would we be making decisions—

**The Chair:** That's all the time we have.

Sorry, Mr. McCowan, perhaps you could just briefly answer.

**Mr. Ian McCowan:** Again, I'm not actually involved in the security determinations in terms of, for example, what connectivity is used in various formats. But yes, all of the appropriate security agencies of government are involved in that. If it would be useful to the committee, I could get you a quick summary of the latest on Zoom relative to government operations. I'd be happy to do that.

**Mr. Blake Richards:** Yes, if you could provide that, it would be very much appreciated.

**The Chair:** Thank you.

Next is Madam Petitpas Taylor, please.

**Hon. Ginette Petitpas Taylor (Moncton—Riverview—Dieppe, Lib.):** Thank you very much, Madam Chair.

First of all, I want to thank all of our witnesses for joining us today. It's great to be able to learn from your experiences.

Also, before I get going with my questioning, happy birthday to our Bloc colleague.

In response to my first question, I'd like to hear from all of our international witnesses, but perhaps less from Mr. Hamlyn, because we've already heard from him on this matter. I'm wondering if our international witnesses could comment on whether they had all-party consensus to move forward with virtual sittings to deal with the pandemic and to properly address physical distancing.

● (1220)

**Ms. Siwan Davies:** I'm happy to go first and to say yes, we did. Our business committee, which has representation from all of the parties, did agree to this.

**Mr. David McGill:** I can quickly add that it was very much the same in Scotland. We had cross-party consensus from a very early stage, and that was conducted through the cross-party parliamentary bureau.

**Hon. Ginette Petitpas Taylor:** Thank you so much for that.

Mr. Hamlyn, I have a quick question for you.

Is your Parliament considering passing legislation virtually to allow remote participation by all members?

**Mr. Matthew Hamlyn:** We don't need to pass legislation to do that, because it would be a matter of our own Standing Orders. We already have passed a temporary order that allows remote participation in proceedings under arrangements to be made by the Speaker. That's already in place.

The House will have to review those motions, because the resolutions expire on May 12. We have our own sunset clause as well. We'll need to revisit the resolutions that allow for virtual proceedings quite soon.

**Hon. Ginette Petitpas Taylor:** Thank you for that, Mr. Hamlyn.

I have another quick question for you. Following up on my Bloc colleague's question with respect to the hybrid model, was there a reason you chose the hybrid model for question period?

**Mr. Matthew Hamlyn:** We chose the hybrid model because the Speaker of the House didn't want to be in the position where members were actually forbidden from coming to Westminster. There's a very ancient right that MPs have—and which some of them claim—to come to a sitting of the House wherever it is, and you don't want to rule that out. Therefore, we were asked to devise a... He also asked us to start with questions and ministerial statements, because he felt that accountability of government was the most important thing to start with. We then worked out fairly quickly that we could expand it to legislation and other business. However, we started with questions to ministers, essentially because that's what the Speaker asked us to start with, and we had to start somewhere. The hybrid model was deliberately there to provide parity for the members who are there in person and those not there in person.

**Hon. Ginette Petitpas Taylor:** Are the MPs who are choosing to attend the House living nearby? Are the members of Parliament respecting the need to limit their travel?

**Mr. Matthew Hamlyn:** I've not yet done a really detailed analysis of who's physical and who's virtual. Ministers so far have tended to appear in person, partly because the Speaker has said it's easier to manage the chamber, from his point of view, if the ministers are there.

We've had a mixture of two ministers answering questions, one virtually and one physically. It helps if the minister has significant technical problems that we have someone in the chamber, but no, some London-based members of Parliament have contributed virtually. Some members have come from a distance to participate physically. The data is all published now so people are already looking at it to see what patterns they can see.

**Hon. Ginette Petitpas Taylor:** Thank you.

**The Chair:** That's all the time we have.

Next up we have, is it Mr. Tochor or Mr. Brassard?

**Mr. John Brassard (Barrie—Innisfil, CPC):** I believe it's Mr. Tochor.

**The Chair:** Mr. Tochor, you have four minutes.

**Mr. Corey Tochor (Saskatoon—University, CPC):** Thank you very much for the presentation.

My comment and questions have to do with the quality of democracy during virtual parliaments. I'd like to hear about the experiences of other parliaments on the concerns of going virtual, right now our question period being the primary example. Unfortunately, it is going down a path of prepared questions and prepared answers, and it's not the questions per se that are the concern. It's the answers.

If we move to a virtual democracy where people will be responding to questions, I suspect it will be teams of people on other computers drafting other responses versus the minister or actual debate among members. How do we protect the quality of our democracy? The longer we go down this path of having people other than elected officials control or influence our democracy behind the scenes, I think it's a terrible direction for us to go.

If you look back to Westminster-style democracy, if you look at why a bill has three readings and why it has to be read out loud, it goes back to the belief that it's the individual member, not the team of people behind him, who is directing our democracy.

Do you have a comment on that? If anyone has any responses to that concern, I would be interested to hear them.

• (1225)

**The Chair:** It seems as if the question is open to everybody.

**Ms. Siwan Davies:** I might be brave enough to go first.

From our experience in Wales, albeit the participation is virtual, the members are being asked questions they didn't know of in advance and the ministers themselves are answering. Therefore, I think it isn't any different from being in the chamber.

In our chamber, for example, members will have IT equipment, so the issues about somebody sending them something would pertain there in any case. I think thus far our committees and our plenary are not disadvantaged by meeting virtually as opposed to meeting physically. As someone who's worked in legislatures in Australia and in the U.K., I think the forum in which you meet doesn't necessarily control what members will do and say, and who will direct them. I think that's more of a political question rather than one for us as officials.

**Mr. David McGill:** If I could offer an observation from Scotland, one of the things we have noticed is that because some of our question times have been out of the parameters of the Standing Orders, it has meant that the questions are not submitted and published in advance, so the cabinet secretaries responding to those questions don't have any idea what is going to be asked.



It's difficult to say whether that is an improvement in democracy, given that the subject matter is very sombre, so it's difficult to see the politics at play here. It's not a case of opposition members trying to catch government members out or holding them to account in that kind of real political sense. We have noticed a freeing up, a tendency to be a bit more flexible in that virtual space, that we tend not to be in the physical space.

**Mr. Matthew Hamlyn:** If I may, Chair, very briefly, I would agree with all of that.

We haven't changed any of our rules on the content of questions and answers, so we still have members asking questions. Ministers have not had any notice of the substance of the questions, so they have to be ready to respond whether they're virtual or physical. There has been a lot of discussion about the performance of the new leader of the opposition, Sir Keir Starmer, in the last couple of weeks. People have been watching him at question time, during the Prime Minister's questions, and noticing how well he is doing. They notice whether he's physically there or not, but there's been no feeling the new technology has changed the way the actual politics is working.

**The Chair:** Thank you so much. That's all the time we have.

The next questioner is Dr. Duncan.

**Hon. Kirsty Duncan (Etobicoke North, Lib.):** Good afternoon, everyone. Thank you for your experience and your wonderful expertise.

I'll begin with Ms. Davies.

Is it correct you have in place remote voting?

**Ms. Siwan Davies:** We have the ability to vote through our virtual proceedings, but it's not an electronic voting system. It's weighted voting and casting the votes on behalf of their party group. They are orally being asked. There's a roll call, and they're stating that they're casting their votes in a certain way. It is remote and it's virtual. It's not electronic voting, although in our physical chamber we have electronic voting.

**Hon. Kirsty Duncan:** Thank you.

To Scotland, Mr. McGill, you've changed the Standing Orders. Might you be willing to table with the committee the options you're considering for remote voting?

**Mr. David McGill:** I'd be more than happy to do that. It's something that we're hoping to make progress on in the next couple of weeks. If that would assist the committee, I'm more than happy to do that.

• (1230)

**Hon. Kirsty Duncan:** Thank you very much, Mr. McGill.

Mr. Hamlyn, I believe you are testing remote voting. Could you talk to us about what remote voting looks like in the U.K. Parliament, please?

**Mr. Matthew Hamlyn:** I certainly can. I can tell you what we hope it's going to look like. After this meeting is finished, I will turn on my Twitter feed with a certain amount of trepidation to see how the members get on.

Essentially, it is built using systems that our members already have. We have an online system for tabling parliamentary questions and motions, so that's secure. We know how to run it and how to support it. It simply has a function that, put most simply, when there is vote, MPs will get a text and an email telling them to check into the MemberHub portal. When they open that—they may have it open already—there will be a banner saying, "Vote now in progress". You click on that, and that will take you to a screen telling you what the question is. You click "Aye" or "No". You get a second check saying, "Are you really sure you want to vote 'Aye' or 'No'?", and you go ahead and click that. You then get a confirmation that you have voted and how you have voted.

We will then take those results and publish them, as we do now. There will be the usual checks by the House staff, and then once we are content the numbers work, they will be announced by the Speaker and published online.

That's the plan anyway.

**Hon. Kirsty Duncan:** Thank you, Mr. Hamlyn.

Would you be willing to table with this committee the procedure and how it has worked, please?

**Mr. Matthew Hamlyn:** Yes. We've written a lot of guidance and communications for MPs. I hesitate slightly because I'd rather send it to you when we've actually launched the system. That will not be for another week, but I can send you, straight away via the clerk, what we've already told members about the testing, which gives you a pretty clear idea of what we're planning. Obviously, I will send you any follow-up once we've actually launched it.

**Hon. Kirsty Duncan:** Could I ask one last question around the European Union? Did you look at the system the European Union used for remote voting?

**Mr. Matthew Hamlyn:** I don't think we did, because we start in a very different place. The European Parliament, like most other parliaments that I know of, have a desk for every member in their plenary hall, so members tend to vote from that desk, pressing buttons. We've never had that system, so we started from a completely different place. Obviously—

**Hon. Kirsty Duncan:** Sorry, Mr. Hamlyn, I meant that for Mr. McGill; my apologies.

**Mr. Matthew Hamlyn:** I'm so sorry.

**Hon. Kirsty Duncan:** No, it was my fault.

**Mr. David McGill:** I'm not sighted on the fine detail of it, but we had a very quick look at it. I understand the system of remote voting the European Union has implemented is quite convoluted. I think it involves voting sheets being faxed to MEPs for them to fill in and then fax back from designated machines. We didn't delve into that more because a quick glance told us it probably wouldn't meet the security requirements for the system of remote voting that we were looking for.

**Hon. Kirsty Duncan:** Thank you.

**The Chair:** Thank you very much. That's all the time we have.

Thank you, Dr. Duncan.

Next up, for two minutes, we have the leader of the Green Party of Canada.

For two minutes, Ms. May, please.

**Ms. Elizabeth May:** Thank you so much, Madam Chair. It's lovely to learn from all of you.

Actually, speaking of the Greens, I was going to ask Mr. Hamlyn about the following. My friend, the Green member for Brighton Pavilion, Caroline Lucas, has explained to me how you vote in the U.K. in normal circumstances in the Palace of Westminster and how it is so different from how we vote in Canada. I wonder if you could describe it for our members.

Members are already not required to be at a physical desk and to stand in their place to vote. If you could describe it, that would give us context for how this hub portal was an easier transition for you.

**Mr. Matthew Hamlyn:** Yes, the traditional method of voting in both the House of Commons and the House of Lords is that when the question is put and members make it clear to the Speaker that they wish to divide the House, the members will leave the chamber and walk through one or other lobby, the aye lobby or the nay lobby, and obviously they will come from anywhere else in the parliamentary estate if they are there on time.

They have eight minutes to get into those lobbies. They will then pass a desk where House of Commons staff will take their names using laptops so that we get an electronic record of who has voted. They then pass two tellers, who are members of Parliament, one from each side of the question, who count them. At the end of that process the tellers announce the numbers in the House. We then publish the list of members voting online as soon as possible thereafter.

• (1235)

**Ms. Elizabeth May:** It always seems to us in Canada that we are exactly like the Parliament of Westminster, but certainly our Speaker of the House gets a list of our questions now from all party whips, whereas in the U.K. the letter goes to the Speaker to say, "I'd like to ask a question", and the Speaker decides.

There are some differences, but in this case basically the point I was going to make to my colleagues here was that the public never sees a member of Parliament in the U.K. cast his or her vote.

Essentially in our Parliament it would be the government lobby and the opposition lobby. In your case, there are essentially corridors in which members proceed whether they are voting aye or nay. Depending on the corridor, you cast your vote by running down the corridor until you catch someone's eye to be recorded on an iPad.

Is that a good summary of how you voted before the pandemic?

**Mr. Matthew Hamlyn:** Yes, you walk down a corridor. The fact you have voted is obviously public and we publish that online and in Hansard, but—

**The Chair:** That's all the time we have, Mr. Hamlyn. Thank you.

Next up we have Ms. Blaney, please, for two minutes.

**Ms. Rachel Blaney:** Mr. McCowan, I'm wondering about interpretation for the cabinet meetings. Is that service provided by the

Translation Bureau, and if not, are the interpreters certified or uncertified freelancers? Do you know?

**Mr. Ian McCowan:** I don't. I have done very badly in answering the questions this morning just in terms of my areas of responsibility.

My understanding of the way cabinet is functioning right now is that there are obviously fewer cabinet ministers in the room and there is reduced support staff, but I do not know the specifics of how it's working—

**Ms. Rachel Blaney:** Is that something you could find out for the committee and let us know?

**Mr. Ian McCowan:** Absolutely. To address your concern, what specifically would you like to know?

**Ms. Rachel Blaney:** I just want to know if interpretation for cabinet is provided by the Translation Bureau and if not, if the interpreters are certified or uncertified freelancers. Thank you so much.

**Mr. Ian McCowan:** No problem.

**Ms. Rachel Blaney:** Mr. Hamlyn, I am wondering if there have been any matters of privilege that have been addressed during this period of time.

**Mr. Matthew Hamlyn:** No, none have been raised in the four sitting days we've had so far.

**Ms. Rachel Blaney:** Okay, thank you so much. I am just curious about that because that, of course, is a major concern for our Parliament as well. It is a huge country and I am very far away from Ottawa. I know some people are concerned about that.

My last question will be for Ms. Davies.

You talked about how you are doing this new form of voting. Could you talk about that a bit more? I'm also curious what happens if the video or audio cuts out and your members are not able to vote. What happens in that case? I am curious about that because their vote can represent their entire party.

**Ms. Siwan Davies:** We had changes made to our Standing Orders to enable weighted voting. That means that for each party group, one person is nominated to cast the votes of the entire group on the members' behalf. In the case of the government, it includes the Labour Party and the one independent and one Liberal Democrat member who make up the government. In the case of the four independent members that we have, they cast their votes themselves. Therefore, in their case, if they were not to attend the session, they would not vote, as per a normal physical session.

If there were a technical problem and the individual in question were not there to cast the vote, the Speaker has the option of checking to see if one of the other members of the party concerned wants to cast the vote on behalf of the group, as long as there is an understanding in advance that the members are prepared to do that. However, if there were a problem where the member casting the votes on behalf of the group had dropped out, for example, then we would not proceed with the vote. We would have to have a technical break to bring that person back online, because, as you say, you couldn't proceed if someone were incapable of casting a vote.

**Ms. Rachel Blaney:** Thank you.

**The Chair:** Thank you, Ms. Davies, and to all of our witnesses today. It's always fascinating to compare our rules and procedures with those of other parliaments around the world and, of course, with the insights of the Privy Council at this meeting as well.

Thank you to all of you. We'll take a short, five-minute break. I'm sorry that we have to be so tight with the time when switching panels. Please be back for 12:45 exactly to start with our second panel. Thank you, everyone.

• (1240) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1245)

**The Chair:** Welcome back, everyone. We're going to get started.

I just want to make sure at the beginning that everyone clicks at the top right-hand corner of their screen to ensure that they're on gallery view. This is the view in which you should be able to see all of the participants. For those of you who are just joining us, before speaking, please wait until I recognize you by name. When you are ready to speak, you can either click on the microphone icon to activate your mike, or hold down the space bar while you're speaking. When you release the space bar, your mike will mute itself. This is just like a walkie-talkie.

I remind you that all comments should be addressed through the chair. When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute. The use of headsets is strongly encouraged.

I would now like to welcome our second panel of witnesses to today's committee hearing. We've very pleased to have Mr. Gordon Barnhart, former clerk of the Senate, and Mr. Joseph Maingot, former law clerk and parliamentary counsel. He's also the author of *Parliamentary Privilege in Canada*. We're sure to learn a lot from your experience. Third, we have Mr. Gary O'Brien, former clerk of the Senate.

Welcome to the committee. We'd like to start by hearing from Mr. Barnhart, please.

Mr. Barnhart, please unmute your mike and give your opening statement.

• (1250)

**Mr. Gordon Barnhart (Former Clerk of the Senate, As an Individual):** Thank you very much, Madam Chair and members of the committee. It is my pleasure to be here and to be able to share some ideas with you.

Also, I'm deeply honoured to be sharing the panel with Joe Maingot and Gary O'Brien, two long-time colleagues, so it feels just like home, even if I'm in Saskatchewan and everyone else is spread across Canada.

I want to thank you for the invitation to appear before your committee to discuss ways that members can fulfill their duties while the House is adjourned due to COVID-19. I have to declare a bias, though. First, as a former clerk of the Saskatchewan legislative assembly and then the Senate of Canada, I have 25 years of accumu-

lated service; thus, I am a huge supporter of the Canadian parliamentary system.

As members of Parliament will know, you have various roles to fulfill: one, to represent your constituents; two, to review legislation; three, to express grievance before supply, in other words financial review; and finally, to hold the government accountable. These are no easy tasks when the House is sitting in the usual way, and that makes it even more difficult now. When you're able to meet in person, that encourages rigorous and healthy debate. With the physical distancing requirements due to COVID-19, that old normal doesn't apply now. I therefore strongly recommend that Parliament continue to meet, especially during abnormal times, and thus I want to explore with you some options that I think should be considered and that I think are being tested in some way.

First, over the last six weeks the House has met with a limited number of members to allow for physical distancing. I support this action and encourage the House to meet like this on a regular basis. The House with a limited number of members will lack the intensity of the debate, but I think that is better than having no meetings at all.

How often should the House meet? Well, that is a political decision. I know that by nature the government wants fewer meetings, and by nature the opposition tends to want more meetings. I will leave it with you as to how you find that compromise, but I think a compromise must be found so that Parliament will meet on a regular basis. In the interest of good governance, I think we need to find a way for Parliament to be able to meet on a regular basis. The drawback to the option of meeting with a limited number of people is that the members who are farther away from Ottawa are limited in their ability to attend.

I also think that an option of meeting by distance would be good. I'll use the word "Zoom" because that's what we're using here, but there could be many different ways of doing it. In Saskatchewan, through the Municipalities of Saskatchewan, we're having meetings of up to 400 people at a time. They are able to listen, to see the speaker, to offer comments and to ask questions.

The drawback to that is that it doesn't allow for freewheeling debate as you would have if you were meeting in person, but again, I make the argument that it's better than nothing at all. One of the advantages, I guess, of this system is that there's no heckling, but maybe that is a drawback as well. One of the possible drawbacks of meeting by distance is for those members who don't have Wi-Fi. Saskatchewan is a vast province with a small population, yet we are able to make virtual meetings happen. I'm encouraging you to make every effort to do that across Canada. Today I'm doing this presentation, by the way, without Wi-Fi. Thanks to a personal hotspot, I'm able to connect through my iPhone and see you here today.

Committee hearings, on the other hand, are well adapted to virtual meetings because of the smaller size. Thus, I would encourage Parliament to make greater use of committees. They can be connected through Zoom without much difficulty, and even though we miss that personal approach, I think that from now on a lot of the business could be done through committees virtually.

The question now is, with the House with the physical spacing and the virtual meetings—perhaps a combination would be the appropriate way to go—is the Constitution or the Standing Orders being violated? I would argue not.

• (1255)

It could be offered that, if Parliament is not able to meet, then the members are not able to fulfill their roles and the spirit of the Constitution is not being followed. With a virtual meeting of the House, for example, as long as a quorum is present at the House in person, that requirement to sit and to meet quorum would be met. Members attending electronically would be in addition to that quorum. Since all of the members can meet, and if all the members can meet under those two circumstances, then there needs to be an agreement. In terms of the minority Parliament, if there's going to be a division of a smaller number meeting in the House, if you had a confidence vote, you would have to make sure that the agreement is followed so that there is no defeat of a government.

If there was a defeat, if there was a breakdown of that agreement just because of the limited number meeting in the House, I would argue that the Governor General would take into account the circumstances in deciding whether another election would be called, if the government would be defeated or if they would carry on. I would argue, too, that any political party that is playing games with the numbers during a pandemic would face a negative outcry. Thus, I am sure that would not happen. If all the members were allowed to meet virtually, as well as those in the House, I think that would be the easiest way, because you would avoid that division of how many members could be there. The possibility of defeat of government would be much, much less.

Particularly in times of crisis, the public wants its Parliament to function well. I cannot see any constitutional or procedural reasons why a combination of those two options shouldn't be followed.

A possible objection to virtual meetings would be how a vote is counted. At present, as you know, a member must be present and standing in the House to declare their vote. I know that voting can happen by virtual meetings. A vote can have a great significance in the House. "Stand and be counted" is a common phrase, but during these unusual times you may not have that show of public support. You have to be able to vote, and that electronic system will show that it has been valid. The electronic system will show how many people have voted and how they have voted. I think that is well within the rules.

Neither of the above options is as effective and as attractive as meeting in person, but, for now, these options are better than no parliamentary sitting at all. Once the pandemic has passed, Parliament must return to its former method of meeting. The Canadian parliamentary system has existed since before Confederation, through world wars and economic depressions. It must find a way to function during this pandemic.

Thank you very much, Madam Chair.

**The Chair:** Thank you.

Next we have Mr. Maingot, please.

**Mr. Joseph Maingot (Former Law Clerk and Parliamentary Counsel, House of Commons, and Author of "Parliamentary Privilege in Canada", As an Individual):** Thank you, Madam Chair.

I'm going to deal with the question of immunity that's involved in the proceedings of the House and of the committee. I'll give you a brief history and then try to come down to the present.

Parliamentary privilege is a branch of the law of Parliament. It's an elusive subject, and it has a long history, as long as Parliament's. Canada's parliamentary privileges are based on those of Westminster. During the days of the High Court of Parliament in England, the concern was to get the member to Parliament. He had the privilege of protection for actions against his person in the beginning. He did not have to worry about what the public would say about his words or actions in Parliament, because the public was not privy to Parliament or its proceedings, but the king was, through his mouthpiece, the Speaker. Consequently, the next step was to be protected from the king for words and actions in Parliament. That was eventually resolved by article 9 of the Bill of Rights, in 1689, which says more or less that whatever is said in Parliament or in a proceeding may not be questioned in any place outside of Parliament. That arose from the time of the late 1640s, when Charles I lost his head.

Article 9 of the Bill of Rights provided freedom of speech to the member and protection from third party liability for what he said or did in a parliamentary proceeding. Although the member could publish for his own use, members were prohibited by House resolutions of the time from repeating outside Parliament what they or others had said or done in Parliament. A member repeated what he did and said in the House outside of the House of Commons at his legal peril. Any publishing of his own, such as householder mailings, was not protected.

While parliamentary privilege protected the member in Parliament, it was the common law that protected the use of Hansard. A faithful report in a public newspaper of a debate containing disparaging matter to the character of an individual that had been spoken in the course of a debate was quite proper. It is privilege on the same principle as an accurate report of proceedings in a court of justice. That is, the advantage of publicity to the community at large outweighs any private injury resulting from the publication. Defamatory matter contained in a report tabled in the House, but otherwise forming no part of the proceedings of Parliament that were printed, was not protected.

• (1300)

**The Chair:** Mr. Maingot, I know you are going slowly, but as you don't have a headset, the interpreters are having a bit of difficulty, so maybe you could speak closer to the mike and maybe even more slowly if possible. Thank you.

**Mr. Joseph Maingot:** Thank you.

That item was because of the famous case in 1839 in *Stockdale v. Hansard*, which every parliamentary clerk and officer would be aware of. Now, of course, such a report, tabled in the House and published by an order of the House, would be protected by the Parliament of Canada Act.

When the proceedings of Parliament were broadcast, it was provided the persons producing radio and television were employees of Parliament and they produced an electronic Hansard: that is, an audiovisual report of the House without embellishment or editorial. The sittings of committees of the House are also now broadcast. As in the case of the printed Hansard, the electronic Hansard now provided in the House of Commons is a verbatim report of what has transpired audibly and, in the case of television, visually. The debates, whether broadcast or not, nevertheless are still part of debates in Parliament, per article 9 of the Bill of Rights, 1689.

In a study of the privileges of members of the Parliament in Britain, the Select Committee on Broadcasting, in 1966, said that a member of Parliament whose speech is broadcast would continue to be protected by absolute privilege in respect of what she or he said in debate in the House. The member is, in law, speaking on an occasion of absolute privilege, and the means of publication is irrelevant.

Parliamentary privilege is the necessary immunity that the law provides for members to do their legislative work, including the assembly's work in holding the government to account. It is also the necessary immunity that the law provides for anyone taking part in a proceeding in Parliament.

To the question "necessary in relation to what?", therefore, the answer is necessary to protect legislators in the discharge of their legislative and deliberative functions, and the legislative assembly's work in holding the government to account for the conduct of the country's business.

In addition, it is the right, power and authority of each House of Parliament to perform its constitutional functions.

The Supreme Court of Canada pointed out that in the U.K., privileges of Parliament are rights "absolutely necessary for the due execution of its power", and that "Canadian legislative bodies properly claim as inherent privileges those rights which are necessary to their capacity to function as legislative bodies. There is no dispute in the case law that necessity is the test."

The sittings of the House of Commons itself and the sittings of a committee of Parliament are constitutionally inherent. Their exercise is not subject to a judicial review and constitutes one of the internal proceedings, and all who participate in them are protected. So anyone participating in a committee of the House or in the House is protected.

The Supreme Court of Canada confirmed that the courts defer to the internal proceedings of legislative bodies, affirmed that the House of Parliament is "the sole judge of the lawfulness of its proceedings" and that this is "fully established" in the United Kingdom, while also approving that "[i]n settling or departing from its own procedure, the House can 'practically change or practically supersede the law'".

The dictionary definition of "virtual" says, "having the essence or effect but not the appearance or form of". As in the case of the

House of Commons, a virtual sitting of a committee of the House constitutes a sitting and part of the internal proceedings of the House. Parliamentary privilege prevails, in line with the principle that prevails in a proceeding of a virtual court of justice.

• (1305)

**The Chair:** Thank you.

Mr. O'Brien, please.

**Mr. Gary W. O'Brien (Former Clerk of the Senate, As an Individual):** Thank you very much, Madam Chair, for your invitation to appear. I seem to have an unstable Internet connection, so I hope I can get through this without any problem.

I would like to discuss some of the procedural issues relating to the implementation of a platform for full virtual sittings.

As I understand it, the proposal for virtual sittings is being offered as a temporary solution to balance parliamentary duties with caution over the COVID-19 pandemic. Although the intention is to make such sittings temporary, I think nonetheless that it would be helpful for the committee to have a detailed analysis or, even better, an audit of how these new technologies may impact the various procedures of the House and, more importantly, the consequences flowing from those changes. This way your committee would have a big picture of what is at stake.

The testimony you have received to date from Speakers, former speakers, clerks and law clerks is invaluable, but perhaps a comprehensive study undertaken by your table research team with the participation of members of the House will allow you to better assess what changes will have minimal impact versus those that may come close to altering the chamber's fundamental procedural characteristics. Such an analysis may assist you in recommending the kinds of hybrid processes or first steps in going forward to implement a virtual sittings platform.

Studying proposed revisions to standing orders during a crisis without having the time to understand which amendments may transform the chamber's essential characteristics is never the best practice for policy-making. I acknowledge that your institution may be under important peer pressure at the moment, as other legislatures around the world are moving to virtual operations in response to the challenges posed by the pandemic, but given the hand you are dealt, at the very least it may be helpful to identify which procedures may be most affected and which are not, if a virtual platform is to be adopted.

I fully agree with the testimony given by the former acting clerk a few days ago that it may be more efficient to build on existing practices. Please keep in mind that other legislatures are also exploring alternatives to physical meetings, but within the constitutional, statutory and rules-based constraints of their legislative processes.

Clearly, some procedures allow for certain parts of the chamber's business to be taken virtually. At Westminster, the House of Commons has agreed that remote technology can be used for key items in business, such as questions, urgent questions and ministerial statements. The Samara Centre for Democracy, in its brief to your committee, has identified take-note debates, during which members give their views on a topic but do not take binding votes, as a procedure appropriate for a virtual Parliament.

However, in my own assessment, the ultimate goal of allowing Parliament to operate as virtually as possible without a continued physical presence in Ottawa appears to go beyond changing just the work ways of the House. The introduction of technologies permitting members to absent themselves from the institution, allowing them to attend via video link, seems a much more fundamental change, and I would like to identify three procedures that may undergo significant alteration.

My first fundamental concern is with the rule of attendance.

The marginal note of Standing Order 15 states that attendance is required. I am confident that advice can be given so that the wording of the rule can be amended to procedurally allow for the use of virtual platforms. Setting aside the legal argument, a question must be raised about whether the intention of the rule would be fundamentally altered.

In the research I prepared for my doctorate on parliamentary practice in pre-Confederation Canada, I came upon an entry, for September 16, 1842, from the Legislative Assembly of the united Province of Canada. The House used to fix a day for the call of the House, requiring that all members attend. If any members were absent, the Speaker sent them a letter, as he did this day, saying, "The House, in directing me to give you notice, is actuated by the greatest unwillingness to believe that such unexplained absence would have arisen from any such neglect or indifference as would render an Honourable Member liable to the censure of the House".

• (1310)

From the beginning of legislative practice in Canada, the first duty of any member of Parliament was to attend sittings and, for many decades, failure to do so without a valid reason brought censure from their colleagues.

Standing Order 15 has been a permanent rule of the House since 1867. Notwithstanding the many demands and obstacles that members of Parliament have always had to face, the principle that the physical attendance of members is required for the House to fulfill its constitutional duties has been a constant theme as to how the legislature should operate. This may now change. What the consequences are should be explored.

My second concern is with counting a quorum. O'Brien and Bosc, second edition, states the following with regard to quorum: "Under the Constitution Act, 1867, a quorum of 20 Members, including the Speaker, is required 'to constitute a meeting of the House for the exercise of its powers'.... In this regard, the Deputy Speaker [said]:

...the Speaker is not in a position to tell members from either side of the House who should be in his or her place or how many members should be available for any debate [in counting a quorum]."

In accordance with this citation, a member, to be counted for quorum, must be physically in his or her place. If a virtual platform is implemented for legislative sittings, a different process would have to be established. Please keep in mind that the standing order on quorum is also a constitutional provision and is part of the Constitution Act, 1867.

Historically, before the Act of Union of 1840, which united Ontario and Quebec to become the united Province of Canada, the issue of quorum was of great controversy. There had often been heated discussion and uncertainty in the assemblies of Upper and Lower Canada as to what an appropriate quorum should be, given the pioneer conditions of the country and the linguistic and religious divisions within society. The rules of both assemblies were amended many times in this respect. By making it a statutory regulation and including it in the constitution of the province, it was hoped that the controversies over quorum would cease.

Finally, I'm concerned with proposals permitting electronic voting. Measures that allow for the use of electronic voting to the exclusion of other components of conducting a legislative debate in Parliament misunderstand the nature of parliamentary procedure. Voting is a crucial stage, but it is only one of two others that go into the making of the decision on a bill, and all three stages are linked. The other two stages are the proposing of a motion and then its debate.

In theory, as per the rules of the House, all members are to attend the sitting so that they know about the motion through the reading of the Order Paper—for example, the introduction of bills—and to think about it for two days in order to prepare their thoughts and then to commence its debate. Some classical political theorists believe that legislative debate is the most important constitutional principle there can possibly be and is the basis for democracy.

Parliaments are steeped in tradition, because those traditions are meaningful. Allowing for only electronic voting may belittle other aspects of making a legislative decision and may not respect the important principle of parliamentary procedure.

In conclusion, as I have mentioned, I believe a detailed analysis or audit of how these new technologies may impact various House procedures could be of assistance to you. In addition to those subjects I've discussed, the audit could include the rules of order and debate, how the Speaker will recognize those who wish to participate in debate, what a virtual Parliament would actually look like in the assignment of seats, how to appropriately acknowledge national and international tragedies, and the procedure for royal assent. A full analysis will obviously be a longer-term project, but one that your committee may want to pursue.

Thank you very much.

• (1315)

**The Chair:** Thank you.

We will now continue into questions. First up will be Mr. Richards for the Conservative Party.

**Mr. Blake Richards:** Thanks, Madam Chair. I'll start with Monsieur Maingot.

You discussed the concept of privilege in your opening remarks. I wasn't completely clear on it, so maybe I'll ask for some clarification from you. Are your thoughts that in virtual sittings there may be some concern with privilege, for example if members were unable to access the virtual sittings because they didn't have quality Internet service?

Also, I think you indicated that for the words spoken during these virtual sittings or meetings, there may be some concern about whether they would be covered by parliamentary privilege. Did I understand that correctly? Can you maybe just touch on those two topics?

**Mr. Joseph Maingot:** Actually, it was the contrary. I'm of the view that parliamentary privilege prevails because it's a sitting of the House. The procedures of the House are subject to the concern of the House, and of course defer to the privilege of the House, which relates to the inner proceedings.

As a matter of fact, when I was looking it up and checking, as anybody would, I noticed that the Parliament of Western Australia looked at the question of virtual sittings and the only aspect the members didn't cover and weren't worried about was the parliamentary privilege aspect.

**Mr. Blake Richards:** What about the other concept? There's obviously a built-up body of Speaker's rulings and otherwise that would indicate where people have been physically unable to access the House of Commons for whatever reason; they've been delayed or held up in some way. I suppose you can make the argument that if you're not able to access any of the virtual sittings because you don't have the Internet connection, or whatever the reason might be, your privilege has been breached.

What would be your thoughts on that? Would that potentially be a breach of a member's privilege, if he or she wasn't able to be a part of these virtual sittings because of those kinds of reasons?

• (1320)

**Mr. Joseph Maingot:** It seems to me that unless the member wanting to attend a session was prevented from attending because of missing a plane or being sick or any reason other than that, it would be the same as if you were sitting in a traditional way. If something doesn't prevent you from coming because you're a member, then it's up to you to attend.

I hope I'm making myself clear. For members who can't get to a meeting, it's only if they're obstructed as members from attending. Otherwise, it's up to them to get there.

**Mr. Blake Richards:** Sure. So if it were held as a virtual sitting and in the region where you live there is not the Internet connection to do that—I understand that may have occurred the other day for some members, although I haven't been able to confirm that—if that prevented members from being able to log on, would that be considered the same as if someone had physically obstructed them from entering?

**Mr. Joseph Maingot:** I'm not sure I heard everything you said. The point is that unless you're being obstructed from attending a sitting of the House or a sitting of a committee as a member of Parliament, no contempt of Parliament is involved.

**Mr. Blake Richards:** I understand. So you wouldn't see the lack of Internet access for a virtual sitting being considered obstruction in some way.

**Mr. Joseph Maingot:** I would not, because it's part of the proceedings of the committee that the committee itself has established to use in advance.

**Mr. Blake Richards:** Okay.

I understand you were the law clerk when the House moved to televising the proceedings. Is that correct?

**Mr. Joseph Maingot:** Yes.

**Mr. Blake Richards:** Would there be any lessons to be learned from that time, from that switchover, that would be helpful in looking at this? This is being looked at as an emergency right now. Would you advise caution in looking at this as a long-term thing? Would you advise using this only for these types of emergency situations, or is it something you think can be moved to quickly as a permanent thing?

**Mr. Joseph Maingot:** You heard from members in other jurisdictions, which is very appropriate. When the committees were broadcast, it was broken in gradually. There was some concern at the beginning about immunity, but that was settled. It was settled of course by the U.K., and we agreed with that. But it's a question of its being brand new, and necessity is the mother of invention.

**Mr. Blake Richards:** Thank you.

**The Chair:** That's all the time we have.

Next up is Mr. Gerretsen, please.

**Mr. Mark Gerretsen (Kingston and the Islands, Lib.):** Thank you very much, Madam Chair.

Mr. Maingot, I'd like to pick up from where Mr. Richards left off. Just so we're absolutely clear here, it's your opinion, as a former law clerk, that parliamentary privilege would not be breached as a result of not having the proper Internet connection. Is that correct?

**Mr. Joseph Maingot:** I'm not sure I understand the MP's—

• (1325)

**Mr. Mark Gerretsen:** Mr. Richards was asking about the Internet connection and whether there could be parliamentary privilege if you didn't have access. From my understanding, you're saying that you don't see that as a breach of parliamentary privilege.

**Mr. Joseph Maingot:** Well, no, of course, if you were connected to the committee, you would be part of the virtual committee, as you are right now. You're all connected to it and part of it. Somebody outside of that, if they're not part of that virtual committee, they're not—

**Mr. Mark Gerretsen:** But let's say I had an Internet connection and something happened. For example, a cellphone tower went down and my Internet connection suddenly became unavailable. Would you regard that as a breach of my parliamentary privilege?

**Mr. Joseph Maingot:** We're bringing in Mother Nature now.

**Mr. Mark Gerretsen:** Well, that's what I mean. My interpretation of what you were saying to Mr. Richards is that it depends on the obstruction, like you being prevented from getting to be part of the meeting, and that wouldn't necessarily be the case. Is that correct?

**Mr. Joseph Maingot:** That would be a technical matter that a member would raise in the House to try to resolve.

**Mr. Mark Gerretsen:** Okay.

Mr. Barnhart, you spoke about seeing the possibility of committee work being done more regularly by this type of platform. You mentioned smaller meetings and it being easier to manage the people. That's something that's very similar to what former speaker Milliken said when he came on a few days ago. It didn't seem as though he was against the idea of Parliament operating that way. In fact, he said that he saw some technical restrictions to making it more difficult to occur.

Is that your interpretation of it?

**Mr. Gordon Barnhart:** Yes, I think that interpretation is correct.

I'll respond to your first question, though, in terms of whether it's temporary. I'm a traditionalist. Once this pandemic is over, I would love us to return to having the House sitting in the House of Commons and committees working. Now, committees travel across Canada and that sort of thing. I would like to see that return, in that sense.

**Mr. Mark Gerretsen:** Yes.

**Mr. Gordon Barnhart:** In the meantime, we're facing a pandemic, and rather than having just press releases from time to time, I really want to see Parliament active and very much involved.

**Mr. Mark Gerretsen:** Sure. And I think—

**Mr. Gordon Barnhart:** In terms of—

**Mr. Mark Gerretsen:** Please go ahead and finish your thought.

**Mr. Gordon Barnhart:** My point is that in terms of the committee, it involves a smaller number. As we're seeing today, we have roughly eight to 12 people online. Other than Gary with his connection, which happens from time to time, I think it's working very well. I can see everyone. I can hear people.

**Mr. Mark Gerretsen:** The truth of the matter is that, from time to time, I might miss a plane, or I might miss my ride. I drive in from Kingston, and I might get stuck in traffic.

**Mr. Gordon Barnhart:** Yes. I appreciate that not having the Internet or the Wi-Fi is a problem, but as I mentioned, today I'm doing this without Wi-Fi. I'm doing it through a cellphone.

**Mr. Mark Gerretsen:** Right.

**Mr. Gordon Barnhart:** You are correct that perhaps the whole cell system could go down, or the whole electrical system could go down, but those are—

**Mr. Mark Gerretsen:** I'm sorry to interrupt, but I'm running out of time. I wanted to follow up on a point.

**Mr. Gordon Barnhart:** No problem.

**Mr. Mark Gerretsen:** Your position seems to be that from a practical implication, it's more difficult to manage more people in a virtual setting like this. That was Speaker Milliken's position on it

too. But assume for a second that it was totally manageable, that there was a platform, that there was a way to completely handle it and that it was just as easy to do as this meeting is. Would you see anything wrong with functioning that way in times of emergency, which is what this committee is looking at right now?

**Mr. Gordon Barnhart:** I would agree. In times of emergency—and it showed the other day. That was a bit of an experiment, a trial run. The feedback I've had is that basically it worked quite well. There were a few members who weren't able to connect, but those bugs could be worked out.

Once the pandemic is over, I'm hopeful that Parliament would resume meeting in the House of Commons. I would also make the argument, following up on what Gary said, that quorum should mean quorum in the House of Commons, with 20 people distancing and the rest could join by virtual connection.

• (1330)

**Mr. Mark Gerretsen:** Thank you.

**Mr. Gordon Barnhart:** You're welcome.

**The Chair:** Thank you so much.

Next is Madam Normandin.

[*Translation*]

**Ms. Christine Normandin:** Thank you very much.

I have another question in the same vein.

Mr. Maingot, you told us that Internet service is not considered an obstruction that would keep a member from attending, because it's something outside Parliament's control, like a missed flight or a storm. I want to examine that question from the other direction.

If the House increases in-person sittings, by prolonging the sitting day and increasing the number of members, could that be considered as obstructing certain members from attending, if they are afraid of going to Parliament for health reasons because they are older, ill or immunosuppressed or have children?

Would that be considered obstruction, because the decision to extend the periods of physical attendance would have been made by the House?

[*English*]

**Mr. Joseph Maingot:** Forgive me if I reply in my mother's native tongue.

People can't get there for a variety of reasons other than being obstructed and that doesn't represent a contempt of Parliament. Aged or otherwise, people have to make their way. People who are elected and who have disabilities make their way. Unless you're actually obstructed, I don't see any concern.

[*Translation*]

I hope I understood your question correctly.



**Ms. Christine Normandin:** Interpretation makes it a little harder. That being said, I would like it if Mr. Barnhart and Mr. O'Brien could answer my question as well. From the beginning, we've been hearing arguments in favour of the virtual committee and arguments against, but we rarely hear anyone talk about balancing the drawbacks of each side. For instance, we need to balance poor Internet service against the health risks that some of the more vulnerable members would face if we increase in-person sittings.

I'd like to hear your thoughts on balancing these drawbacks.

[English]

**Mr. Gordon Barnhart:** Gary, I defer to you first, if you wish.

**Mr. Gary W. O'Brien:** Thank you, Gordon.

The essence of my presentation was that the committee should try to get a big picture of not just the changes but the consequences of those changes. We don't really understand because it's so new. We can make the rule change but what effect does it have on the House, the functioning of the House, and the little things like how important the lobbies used to be? Members would go to the lobby, and the folklore is that most of the business took place in the lobbies. How is that all going to be impacted by a virtual platform? That's my major point.

Thank you.

**Mr. Gordon Barnhart:** My French has become rather rusty since I left Ottawa. If I understood you correctly in terms of balancing the electronic risks and the health risks of the pandemic, I think with appropriate physical distancing the House can meet with 20 or perhaps 30 people spread around. The risk isn't all that high and physical distancing should be practised, but to make sure a greater number of people can participate, I would weigh in on the side of virtual attendance by the other members.

[Translation]

**Ms. Christine Normandin:** Let me clarify my question.

If we reduce the number of virtual sittings and increase the number of in-person sittings, could that have an adverse impact on the parliamentary privilege of a member with an underlying health condition, for example?

[English]

**Mr. Gordon Barnhart:** I would argue that privilege would apply, and I think this is what Mr. Maingot is arguing as well. Whether you're there in person or attending by Zoom, privilege would apply. If you're saying something on Zoom that could be considered unparliamentary, I think it is, whether you're there virtually or in person.

• (1335)

[Translation]

**Ms. Christine Normandin:** Mr. Maingot, I have a hypothetical question for you.

In the future, it will be possible to write questions and comments on electronic platforms. I'd like to hear what you think about that mode of expression.

Would our parliamentary privilege still protect us from charges of defamation, for instance, even if the statements are made in writing rather than aloud?

**Mr. Joseph Maingot:** Thank you for your question.

[English]

Maybe I can reply by saying, whether it's virtual or not virtual, privileges remain the same.

I suspect that if we're speaking in terms of members who have difficulty getting about, that's not a matter of privilege. Getting to and from the House is up to the member. Unless he has been obstructed, there's no relation to immunity or parliamentary privilege.

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

Next we have Ms. Blaney.

**Ms. Rachel Blaney:** Thank you to all of you for being here today.

My first question is about the reality we're facing right now and how quickly we and other governance systems across the planet have had to respond to this issue.

Do you agree that Parliament should be looking at a more staggered approach, implementing different virtual proceedings one at a time and correcting as we go? This is a huge amount of work that we need to look at. The administration is doing a fantastic job, but there are a lot of challenges and changes with technology.

Could I please get the first answer from Mr. Maingot?

**The Chair:** Mr. Maingot.

**Mr. Joseph Maingot:** Madam Member, I'm not sure if I seized the question properly.

**The Chair:** Could you repeat your question or rephrase it?

**Ms. Rachel Blaney:** Absolutely.

As we are a committee looking at how to implement a short-term virtual Parliament, I'm asking if you would recommend a more staggered approach.

**Mr. Joseph Maingot:** A more sacred...?

**Ms. Rachel Blaney:** Staggered. Not all at once, but a staggered approach.

**Mr. Joseph Maingot:** I'm not sure what you mean by a staggered approach. We're now sitting in a virtual sitting of—

**The Chair:** Mr. Maingot, I believe she means in different stages, in different phases and not all at once.

**Mr. Joseph Maingot:** I see.

I don't know how I could answer that. That's a technical problem dealing with procedures and I want to restrict myself to the area with which I'm most familiar.

**Ms. Rachel Blaney:** Thank you.

Does anyone else have anything to add to that?

**Mr. Gordon Barnhart:** I don't mind jumping in. I think I understand what you're saying in terms of having a staggered approach, but I would argue in favour of having it all simultaneously.

If you had 25 members physically in the House with distancing and the remainder, however many, online, I think that could work. It has been shown to be working somewhat now. I don't think staggering it would make it simpler. I think it would make it more complicated.

That would be what I'd recommend.

• (1340)

**Ms. Rachel Blaney:** Mr. O'Brien, do you have anything to add?

**Mr. Gary W. O'Brien:** Yes, I would agree with a staggered approach. I gather that the U.K. House of Commons at Westminster is starting slowly and seeing how it works, perhaps starting with question period and ministers' statements, those sorts of things. The values of Parliament are so much at stake.

I know it's a terrible illness. The pandemic is so terrible—there's no question about that—but this is our Constitution. This is our primary constitutional institution and we should guard that as much as possible.

**Ms. Rachel Blaney:** Thank you, Mr. O'Brien.

As we've gone through this process, one thing I've reflected on is how organic it has been as we figure out how to move forward. We know that holding the government to account, making sure that the processes are transparent so that Canadians understand them and that democracy continues even in a pandemic are absolutely important.

I'm just wondering if you have any thoughts on having this opportunity to create a set of standing orders that we could shelve during normal times. I agree that those discussions that happen in lobbies between parliamentarians of different parties are so important. I refer to standing orders that we can put away, but if something like this ever happens again and we're not able to sit in person, we could pull those out and have at least a framework to start on.

**Mr. Gary W. O'Brien:** I would agree that we should try to get a template. That's why I'm proposing that we have the experts plus members try, not in a time of crisis, to rationalize what would work and what would have minimal impact on the House. We don't want to open up a Pandora's box for other future crises.

I know it may take a little bit of time, but you certainly have the expertise in the House of Commons to perform this function.

**Ms. Rachel Blaney:** Thank you.

Mr. Barnhart, do you have anything to add to that, any thoughts?

**Mr. Gordon Barnhart:** Yes, I agree with Mr. O'Brien that we want to be careful on this.

I like your idea of having two sets of standing orders, one for normal times and another for abnormal, because this COVID-19 is not going to be unique. I think we're going to have another one come at some time in the future. I like your idea.

The issue would be who's going to make the decision to flip the switch from the standing orders for normal times to those for abnormal times. I certainly agree with you that it's worth considering.

You have to, though, be able to make sure that Parliament is adaptable to the circumstance and not just say, "Well, we have a

crisis, so we can't meet." That would be the extreme that I certainly wouldn't support.

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

Next we have Mr. Brassard for four minutes, please, if we can agree to do what we did in the last panel and do four minutes and then two. Thank you.

Mr. Brassard, go ahead.

**Mr. John Brassard:** Thank you, Madam Chair.

Mr. Barnhart, Mr. O'Brien and Mr. Maingot, thank you so much for being here. I found your insight really valuable.

I want to pick up on the theme of Parliament within a pandemic. The challenge that we have is that this is, presumably, a temporary measure. There's very little in the way of government business that is being done. Most of it is in response to the pandemic.

As it relates to what we're dealing with now, it's a temporary version, and then, as Ms. Blaney said—and this is really the direction I want to go—it's about flipping the switch, if you will. We have to look at this as temporary, given the situation we're in now, and what trigger points would occur in the future. I want to get your perspective on both of those.

I have one question, Mr. O'Brien, that I want to ask you. If you could make it quick, both of you, I would appreciate that.

What would be those trigger points, in your opinion?

**Mr. Gary W. O'Brien:** Maybe, Gordon, you could start with that.

**Mr. Gordon Barnhart:** I'm not sure exactly what a trigger point would be. You're right. I think Parliament right now, government, is focused right on the pandemic, but I wouldn't want to see government focused on that solely, because the other issues in the country have to be addressed. I think we also have to make sure that you, as a member of Parliament, be it government or opposition, have to be in a position to be able to hold the government accountable.

In terms of the trigger point, I guess the declaration of a pandemic would be a trigger point in my mind. The WHO would make that declaration. I think it would also be an agreement with the House of Commons to say, as Ms. Blaney has said, you'd have that second set of standing orders that you'd switch over to in a pandemic, which would be a trigger point, in my mind.

• (1345)

**Mr. John Brassard:** Mr. O'Brien.

**Mr. Gary W. O'Brien:** It's a health and safety issue, and health and safety issues are paramount. But all parliamentary business is important. I know emergency legislation is key, but there's also the matter of a vote of confidence. You have to have confidence in a government that's facing this crisis. All these factors have to be put into it. I don't think it's black and white.

**Mr. John Brassard:** It's very difficult within the committee's mandate of five meetings to come up with what all of those scenarios are going to look like. I agree with you, Mr. O'Brien, that we have to have a post-mortem on this crisis to determine what the consequences are going forward.

My last question is for you, Mr. O'Brien.

You spoke about the rules of attendance, attendance being required under Standing Order 15, and the principle of physical attendance in the House of Commons. What are the consequences of members not being in attendance?

**Mr. Gary W. O'Brien:** I think that's the kind of thing that needs to be looked at. Members themselves can give that answer perhaps better than I can.

It certainly changes the dynamic of the House completely, because there is so much informal work in some ways versus the rules of procedure which determine how the House works. The long arm of history is what I'm concerned about. The House has always had obstacles. I'm a student of pre-Confederation history. The first meeting took place in 1792, in Upper Canada. Imagine the member from Ottawa who had to go all the way to Niagara Falls, which is where that was, and the hardships he had to endure to get to Parliament, but he did it because of the importance of the institution.

I think we have to keep that in mind even in this pandemic.

**Mr. John Brassard:** Thank you so much, gentlemen.

**The Chair:** Thank you. That's all the time we have.

Next is Mr. Turnbull, please.

**Mr. Ryan Turnbull:** Thank you, Madam Chair.

Thanks to all the witnesses today. We appreciate your comments and your incredible depth of experience. It's great to have you here.

I'm an ethicist. I believe in the precautionary principle. I believe at this time, more than ever, in a global pandemic, in a health crisis, we actually have a duty to protect the health of all MPs and all workers. The risks associated with physical meetings, to my mind, are greater than the risks of virtual sittings.

Would you agree, Mr. Barnhart, that we should be doing everything in our power to have as many virtual sittings at this time, in this pandemic, as possible to protect people's health?

**Mr. Gordon Barnhart:** Yes, I very much agree with you. For example, my wife and I have been practising that very much, in terms of social distancing and not going out any more than necessary, etc., but I would argue as well—

**Mr. Ryan Turnbull:** Thank you for doing that. I really appreciate it.

Sorry. I didn't mean to interrupt. My apologies, but I'm just short on time and I was looking for a quick answer to that one, so I appreciate that.

If you don't mind, I'm just going to move on.

**Mr. Gordon Barnhart:** Yes.

**Mr. Ryan Turnbull:** Mr. Barnhart, you also mentioned regarding heckling that there could be a positive outcome of some of the

virtual sittings. Being a relatively new MP, I really do think that heckling in the House does impinge upon people's parliamentary privilege to some degree. It makes people feel less able to self-express in a place where they're supposed to feel completely open to that debate. It's interesting that maybe there are some positives to a virtual environment.

The information and communication technology sector has been called a "megatrend" by Harvard Business Review. A megatrend is something that affects every industry and every aspect of life before it's completed. It started in 1958, well before I was born, but what I'm privy to is a very slow adoption rate within Parliament, as maybe one of the last areas of society that are adopting digital and information technology to increase inclusivity within debate, which I think it can help to enhance. I wonder if you could tell me about why you think we might be very slow to adopt this technology.

• (1350)

**Mr. Gordon Barnhart:** I'm assuming that was directed to me, Mr. Turnbull.

You're right. First off, I think that Parliament has a very long history, as Mr. O'Brien said, of some 800 years. It does have an image of being small-c conservative and slow to react to change in that sense. That's not a bad thing in many ways, to make sure there is consistency and that Parliament is not just reacting to a whim.

As for the comment on heckling, I'm a traditionalist and think that heckling can get too much and can detract.... Now, I'm starting to lecture members of Parliament. I apologize, but it can start to detract from the image of Parliament. I love to see debate. I love to see the cut and thrust of debate, but heckling, when it gets too much, takes away from that. That's my view.

**Mr. Ryan Turnbull:** Thank you for that.

Madam Chair, do I have time for one more question, really quickly?

**The Chair:** Really quickly. You have 30 seconds for a question and 30 seconds for an answer.

**Mr. Ryan Turnbull:** This question is for Mr. O'Brien.

I noticed that you talked about there being some reluctance with electronic voting. I wonder whether you are aware of other jurisdictions that are rapidly implementing some form of remote or electronic voting at this time, including New Zealand, Brazil, the EU, France, Spain, the U.S., and some of the others we heard from this morning. Scotland and Wales are both doing it, and even the U.K. Parliament looks to be testing these kinds of electronic voting at this time. Are you aware of these trends?

**The Chair:** A very quick response, please.

**Mr. Gary W. O'Brien:** Yes I am, and I congratulate them for doing so. I guess my point was that I did not want to isolate a virtual technology just to electronic voting to the exclusion of the other two stages of making a decision.

**Mr. Ryan Turnbull:** Thank you.

**The Chair:** Mr. Tochor, please.

**Mr. Corey Tochor:** Just quickly, I find it somewhat ironic that Mr. Turnbull was talking about [*Inaudible—Editor*], yet cut off the last speaker mid-answer.

It kind of goes to the limitations of technology and why we need to be in person and how if we go down the digital slope, it's a slippery slope, I believe. That has been shown even today.

I'd like to get our presenters' view on this. Was my privilege as a member of this committee questioned when I was kicked off three times today by Zoom even though my Internet here in Saskatoon is probably as good as anywhere else in Canada? It's not a rural, remote or northern riding, but on three occasions my privilege has been compromised because I was not able to hear the speaker, the question, the answer and the interpretation. This has happened in just over two hours' time. Was my privilege as a member of this committee impacted by technology?

**Mr. Gary W. O'Brien:** I was never an expert on privilege, but I heard many grievances in my time as a table officer, and I think the Speaker would say that you have a grievance, but I'm not sure your fundamental privileges have been breached, which to me means intentional obstruction preventing you from participating.

• (1355)

**Mr. Gordon Barnhart:** Mr. Tochor, I won't disagree with you.

I'm not an expert on privilege either, like Gary just said about himself, but being a former speaker of the Saskatchewan legislature, I don't think your case would be a case of privilege, but certainly a frustration. Technology is improving and I think it will improve even more as they work out the bugs, and I'm sure from here on in you'll be much better able to connect.

**Mr. Corey Tochor:** My next question is for Mr. Barnhart.

We talked about the cut and thrust of having in-person meetings. It's not going to be the same digitally versus if we're in person.

On the heckling, I would agree that it can be distracting. The Speaker has the right to have decorum in the chamber. However, there are aspects of informal communication...that heckling is a part of Westminster democracy. A member's ability to take part in the informal side of things is part of our tradition.

As technology improves, or the platform is developed more for parliamentarians, there's a gap. I'm not comfortable going live, even though we are right now, with virtual sittings. We should take the time to understand. If we agreed to have two sets of standing orders, it would take probably months, not weeks, to come to a conclusion on what they would look like.

Mr. Barnhart, could I get your comments on how we would develop that?

**Mr. Gordon Barnhart:** I would not want to see rules for going totally electronic or digital on a permanent basis. I think they're a good way of making sure that Parliament is able to meet during a pandemic, for example, but I'm hopeful that once a pandemic is over, Parliament would go back to its traditional way of meeting in person. I think there are great advantages to that.

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

Next we have Ms. May for four minutes, please.

**Ms. Elizabeth May:** Thank you very much, and thank you to colleagues for allowing me this opportunity.

I can see all of your faces. I'm wondering if any of the witnesses heard the last panel of witnesses from Scotland, Wales and the U.K. Could you nod? Okay, you did not hear it.

One thing I found fascinating came from the representative from the U.K. He said the U.K. Speaker had been very concerned in the pandemic that all members of Parliament had access to everything, so rather than have one sitting that was physical with a limited number of MPs, and another session that was virtual, they've adopted a hybrid model in the Palace of Westminster.

Mr. Maingot, I wonder if you could comment on this idea of privileges and participation rights, because this appealed to me. People who are at a distance, like me—I travel from B.C. to Ottawa, and I missed PROC yesterday because it's a day and a half of travel these days—could participate virtually while a skeletal number could be present physically in Parliament. How does that strike you?

**Mr. Joseph Maingot:** That sounds fine. It seems to me that would be a technical matter for the House of Commons, and it could be technically provided.

The House's privileges include how they do their internal proceedings. That would be part of internal proceedings, it seems to me, a combination of the virtual and regular. It seems to me that it could be put into effect technically because the House has the right to proceed in the manner they feel is necessary for them to perform their function, which is to provide legislation.

Provided the government is accountable, it seems to me that it could be done. They have the right to proceed in a manner they see as fit and necessary to do their functions.

• (1400)

**Ms. Elizabeth May:** Thank you, Mr. Maingot.

Would you like to comment on this as well, Mr. O'Brien?

**Mr. Gary W. O'Brien:** I totally agree with the hybrid approach, with what the Speaker of the U.K. is recommending. It might be a great way to proceed for us, and proceed slowly if possible.

**Ms. Elizabeth May:** If I have time, I'll go to Mr. Barnhart for his comments.

I'm with you. I don't think heckling is part of our parliamentary tradition.

I wonder if you have any comment on that.

**Mr. Gordon Barnhart:** I totally agree with the hybrid concept as well, and even under the current circumstances, heckling is not great. When Parliament resumes in the House of Commons I hope heckling will be reduced much more at that time.

Thank you.

**Ms. Elizabeth May:** Thank you.

I have two seconds left, but I'll yield them to someone else.

**The Chair:** Thank you.

Next up, for two minutes, we have Madam Normandin.

[*Translation*]

**Ms. Christine Normandin:** Thank you very much.

I have a question for Mr. Barnhart.

You mentioned the possibility of a confidence vote, since we're in a minority government. We're going to have to make recommendations to the committee, and those recommendations could have lasting implications. What I'd like to know is whether you would advise us to disregard the fact that we're in a minority government, or whether we should factor that into our recommendations.

[*English*]

**Mr. Gordon Barnhart:** As I was saying in my presentation, if you have the House meeting with 20 people, let's say, and physical distancing and an agreement as to which parties are there, it then comes into question a vote of no confidence.

If you have the hybrid approach of members in the House as well as electronically, then the usual rules of confidence would apply. Then it doesn't become a question.

[*Translation*]

**Ms. Christine Normandin:** I'd also like to hear what Mr. Maingot and Mr. O'Brien have to say about whether or not we should factor the minority government situation into our recommendations.

[*English*]

**The Chair:** Mr. Maingot, at this point should we be factoring in that we're a minority government?

**Mr. Joseph Maingot:** Factoring in the aspect of minority government—I don't quite get that.

**The Chair:** Madam Normandin, would you like to rephrase that?

[*Translation*]

**Ms. Christine Normandin:** Since there's not much time left, let's ask Mr. O'Brien to answer the question.

[*English*]

**Mr. Gary W. O'Brien:** Yes, Madam Chair, I do think we should factor in the question of confidence. A government can never continue to operate without the confidence of the House of Commons and that should never take a secondary step no matter what the situation is.

[*Translation*]

**Ms. Christine Normandin:** So as I understand it, we should factor the minority government into our recommendations and plan accordingly in the context of another crisis or similar situation.

**Mr. Gary W. O'Brien:** I fully agree with that assessment.

• (1405)

[*English*]

**The Chair:** Thank you. That's all the time we have.

Ms. Blaney, you have two minutes, please.

**Ms. Rachel Blaney:** Thank you for some of those questions. I really appreciate the questions of the Bloc member today.

One of the things we talked about in the last period I had with you was having separate standing orders, and procedures or processes are another part of that.

I think Canadians expect to see parliamentarians from different parties collaborating and working together during this crisis, this pandemic, but one of the things I have contemplated is the fact we are in a minority government, which has led to an increased level of collaboration both before and during COVID-19.

Having that separate set of standing orders to move forward, should we be looking at how to increase collaboration between all parties regardless of whether it's a majority or a minority government? Do you have any recommendations on what that could look like?

Mr. O'Brien, I'd be happy to start with you.

**Mr. Gary W. O'Brien:** Thank you very much for the question.

The history of parliamentary reform has always been the efficient work of small committees that work in a non-partisan manner. That's how the major standing orders changes that were brought in in the early 1980s—that's the Tom Lefebvre committee, and that sort of thing—worked. I think whenever we talk about standing orders, there should be a lot of co-operation, and I think a smaller committee, steering or whatever it is, is the most efficient way to go.

**Ms. Rachel Blaney:** Thank you.

Mr. Barnhart.

**Mr. Gordon Barnhart:** I would agree. Not only am I opposed to heckling, but I'm opposed to a lot of partisan game-playing.

Parliament is partisan. It has to be, because you have the various political parties. When I was clerk of the legislative assembly, for example, as long as the House leader and the opposition leaders were working together, there was good debate and things were moving along. If there was a misunderstanding, if it all broke down, we got nothing done, and that is a shame, I think, and you try to avoid that. Therefore, the non-partisan co-operation, especially among the leaders, is very important.

**The Chair:** Thank you. That's all the time we have.

I want to thank all of the witnesses here today. You've brought a wealth of knowledge and experience to our committee hearing. It was really nice to bring you together virtually, old colleagues and friends. It was nice to see you all together.

**Mr. Gordon Barnhart:** Thank you.

**Mr. Gary W. O'Brien:** Take care.

**The Chair:** Before we end, I just want to bring up a couple of housekeeping items. I mentioned them briefly yesterday as well, just to flag them for you.

First, Mr. Richards, we have invited the International Association of Conference Interpreters and the Canadian Association of Professional Employees for the first panel of the May 4 meeting. On the second panel, we will be having the Speaker, the Clerk of the House and the various administrative witnesses we have agreed on. Because we have only two witnesses for the first panel, I and the clerk thought it best to have them in for an hour, and then leave two hours for the Speaker and the Clerk, because they are vital and essential to our getting our report done at the very end. I'm sure there are many questions we have for them from what we've learned.

After that, I want to remind all of you that we're really going to require the committee to be efficient in the use of time. We essentially have only two meetings left to consider the draft report, agree to changes and then adopt it no later than May 12 or 13. It's a very tight timeline.

I'd like to also mention that submitting dissenting or supplementary opinions will also be tight. We need those by May 13 so that there's enough time to prepare and have our report presented to the House on May 15.

Are there any comments or questions about that?

Seeing as there are none, we will adjourn today's meeting. I look forward to seeing all of you on May 4 for our final meeting with witnesses.

Take care.

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