



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

43rd PARLIAMENT, 2nd SESSION

---

# Special Committee on Canada- China Relations

EVIDENCE

**NUMBER 021**

Wednesday, March 31, 2021

---

Chair: The Honourable Geoff Regan





## Special Committee on Canada-China Relations

Wednesday, March 31, 2021

• (1105)

[English]

**The Chair (Hon. Geoff Regan (Halifax West, Lib.)):** Hello, colleagues. I won't say good morning or good afternoon, because the time is different depending on where you are, but I will call the meeting to order. Welcome to meeting number 21 of the Special Committee on Canada-China Relations.

Today's meeting has been requested by four members of the committee pursuant to Standing Order 106(4).

[Translation]

Standing Order 106(4) applies to this special committee, pursuant to the motion adopted by the House on January 25, 2021. Pursuant to that same motion, today's meeting is in hybrid format.

[English]

Before turning the floor over to Mr. Genuis, I wish to say a few words regarding parliamentary privilege and the obligation of witnesses to answer questions.

Parliamentary privilege stems from the Constitution Act, 1867, and refers to the powers, rights and immunities that are deemed necessary for the House of Commons and its members to fulfill their functions. Among those rights is the power to conduct inquiries, summon witnesses and order the production of documents. The House delegates those powers to the parliamentary committees it creates.

The Parliament of Canada Act is also central to the power of committees to obtain pertinent and truthful testimony. It also provides for freedom of speech to all committee members as well as to all witnesses appearing before committees.

Witnesses must answer all questions from committee members. On the other hand, members have been urged to display "appropriate courtesy and fairness" when questioning witnesses.

Committees ordinarily accept the reasons given by a public servant for declining to answer questions, which may involve the giving of a legal opinion, may be seen as a conflict with the witness' responsibility to the minister, may be outside of their own area of responsibility, or may affect business transactions.

It is up to the committee to accept or reject the reasons provided by the witness. Should the committee reject the reasons provided by the witness and the witness still refuse to answer, the committee may report the situation to the House.

Matters pertaining to parliamentary privilege can be decided only by the House, and only the House can intervene in cases in which it deems that parliamentary privilege has been breached.

[Translation]

I hope that shed some light on the situation.

I'd now like to thank Philippe Dufresne, law clerk and parliamentary counsel, and Michel Bédard, deputy law clerk and parliamentary counsel, for being with us.

I'd also like to thank them for providing us with a written legal advice on the current situation. I have requested that they be present today to answer any questions committee members may have.

[English]

I also wish to inform committee members that the Minister of National Defence has confirmed his appearance for Monday, April 12, 2021.

Now I would like to turn the floor to Mr. Genuis.

If you wish, you may now move your motion and speak to it. I will then call for debate and establish a speakers list.

Please proceed.

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** Thank you very much, Mr. Chair. I greatly appreciate your opening comments.

I move the following motion:

That the Committee send for all information and documents in the possession of the Public Health Agency of Canada or any subsidiary organizations relating to the transfer of Ebola and Henipah viruses to the Wuhan Institute of Virology in March of 2019 and the subsequent revocation of security clearances for, and termination of the employment of, Dr. Xiangguo Qiu and Keding Cheng, provided that

- (a) these documents shall be deposited with the Law Clerk and Parliamentary Counsel, in an unredacted form, within ten days of the adoption of this order;
- (b) the Law Clerk and Parliamentary Counsel redact all information that might reasonably be expected to compromise national security, or reveal details of an ongoing criminal investigation, other than the existence of an investigation, and provide the redacted versions to the Committee;
- (c) the committee hold an in-camera meeting with the Law Clerk, within seven days of the conclusion of his redaction of the documents, in order to determine which documents could be made public; and,
- (d) should the Public Health Agency of Canada not provide documents in their unredacted form within ten days, the President of the Public Health Agency of Canada and the Acting Vice-President of the National Microbiology Laboratory be scheduled to appear for three hours before the committee, within 17 days of this motion passing, to explain why the documents were not provided.

That is the end of the motion, Mr. Chair. I'd like to make a few opening remarks about this motion, and I certainly look forward to the committee's discussion.

Conservative and Bloc members of this committee have sought this emergency meeting out of a powerful sense of the enormous stakes in this matter. Substantively, we have a situation in which deadly viruses were sent from a Canadian lab to the Wuhan Institute of Virology, a lab in China with connections to the Chinese military, which engages in so-called gain-of-function experiments. Gain-of-function experiments are experiments whereby efforts are made to make a virus more deadly or more contagious for research purposes. Concerns about the security protocols of this lab have been previously raised by American officials.

Needless to say, the sending of viruses from a Canadian lab to a Chinese military-affiliated lab that does gain-of-function of experiments raises serious questions for national security and global health, questions that are germane to this committee's current study on national security in the context of the Canada-China relationship.

Shortly after the transmission of these viruses, scientists involved were expelled from the Winnipeg lab for alleged "policy breaches". That's all we know—policy breaches—but we are still being told that the export of viruses aligned with protocols and we still don't know exactly why the scientists were expelled.

During our last meeting, MPs from all opposition parties sought answers to these questions from Iain Stewart, president of the Public Health Agency of Canada. Questions were asked at both the general and the specific level. For example, my questions did not mention the cases of the specific scientists involved.

I asked the following question: "Mr. Stewart, has there ever been a case where any government lab has fired scientists as a result of security breaches or the improper transfer of viruses?" He refused to answer that question.

I repeated: "Mr. Stewart, this is a critical issue of national security. Has any lab in this country ever fired a scientist as a result of a security breach or the improper transfer of viruses? You're a public servant. People deserve an answer." Again he refused to answer.

Given the issues at stake, there is obviously a profound public interest in this committee accessing this information, but it is also very clear that this committee has a right to access this information, a right established in law, in our constitutional traditions and in the past practices of Parliament and parliamentary committees. I'll have a bit more to say on that in a moment.

Before going into that specifically, I want to say that what is at stake here is more than just the substantive issues of national security and public health. Through the defiance of Parliament and the defiance of law by a senior public official charged with discharging public functions on our behalf, the president of the Public Health Agency of Canada is asserting an aristocratic as opposed to a democratic principle of government, which is alien to our tradition and our beliefs. He is asserting that public officials, who have heretofore been thought to discharge public functions on behalf of the public, should no longer be accountable to Parliament or at least

should be able to control the issues on which they are and are not accountable.

In cases where he deems fit, this official is seeking the right to make decisions, draw conclusions and shift policy responses on his own, entirely insulated from public or parliamentary scrutiny and evaluation. This is simply not how our system is supposed to work. We have a system of responsible government, hard won and maintained only by the vigilance of Canadians and parliamentarians.

The essence of responsible government is that members of the executive and public officials who they appoint are responsible to the democratically elected legislature for the decisions they make. If officials can refuse the production of documents at will, then we have allowed an attack upon a core principle of responsible and democratic government, replacing it with a kind of aristocratic governance in which accountability is circumscribed by public officials.

Mr. Chair, the proper function of an expert or a functionary in a democratic society is to advise decision-makers and to carry out their direction, that is, fearless advice and faithful implementation. Politicians are often wise to trust that advice, but they may also challenge the views of some experts by consulting other experts and, as our system currently operates, not every public servant who is appointed to lead an agency is an expert in the subject matter of the work of that agency.

● (1110)

We have come to recognize the superiority of responsible government over aristocratic government. A government of elites may have expertise on the implementation of certain technical matters. However, a government that is responsible to Parliament, and through Parliament to the people, is necessarily more responsive to the ends identified by the public.

Aristocracies can furnish proposed paths to their desired ends, but democracies define the public interest in a way that accords with the legitimate aspirations of the greatest number. Our system of interplay between the public service and the people's representatives allows us to leverage the technical expertise of a professional policy-proposing class while also ensuring that democratic legislatures ultimately define the ends to which public policy is directed and are empowered to correct and redirect bureaucracies when their proposed objectives do not align with the public interest as defined by the legislature.

The testimony of the president of the Public Health Agency of Canada, by asserting a new aristocratic right not to be accountable to a parliamentary committee, proposes to upset the critical and finely tuned balance that has up until now provided us with peace, order and good government. We should not take this effective challenge to parliamentary supremacy lightly or fail to take a stand in response to it.

Lest there be any doubt as to whether Parliament has these rights, I want to briefly respond directly to the arguments made by the president of the Public Health Agency of Canada that he does not have to provide documents because of the provisions of the Privacy Act.

I believe that he is wrong about the Privacy Act. However, the more important point is that the Constitution of our country, which defines the rights and privileges of Parliament in its pursuit of democratic accountability and the public interest, supersedes the Privacy Act. If a statute were found to conflict with the Charter of Rights, we all understand that that statute cannot operate in that case. The same principle applies in the case of constitutional provisions around the powers of Parliament.

The Standing Committee on Procedure and House Affairs report from the 41st Parliament entitled “Access to Information Requests and Parliamentary Privilege” points out:

Since parliamentary privileges form part of the Constitution, laws must be interpreted and applied in a manner consistent with them, and where there is a conflict between privileges and statutory provisions, the statutory provisions are “of no force and effect” to the extent of the inconsistency. This constitutional principle is a fundamental postulate and organizing principle of the Canadian constitutional structure, and is clearly set out in subsection 52(1) of the *Constitution Act, 1982* that provides: “[t]he Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of that inconsistency, of no force or effect.”

That's a quote from the Standing Committee on Procedure and House Affairs report.

*House of Commons Procedure and Practice* also notes the following:

No statute or practice diminishes the fullness of that power rooted in House privileges unless there is an explicit legal provision to that effect, or unless the House adopts a specific resolution limiting [its] power. The House has never set a limit on its power to order the production of papers and records.

Mr. Chair, the precedents on this are numerous and well known, and I don't think I need to quote them any further.

Of some importance, as well, is the fact that there is actually not a case of conflict here between the Privacy Act and the constitutional rights of parliamentarians because the Privacy Act specifically envisions a situation like this and defers to us in that case.

My colleague, Mr. Chong, is going to develop this point further with reference to the specific provisions of section 8 of the Privacy Act, which state the following:

...information...may be disclosed...for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or...for any purpose where...the public interest in disclosure clearly outweighs any invasion of privacy...

Mr. Chair and colleagues, we have in front of us an issue that raises questions of national security, public health and the enduring conflict between responsible government and aristocracy. I am

proud that members of multiple parties have already taken a clear and principled stand on this issue, and I hope that other members of this committee will as well.

The motion that I have put forward is reasonable and balanced. It provides a responsible mechanism for responsible exercise of this committee's rightful prerogatives. This committee has the right to request all documents, unredacted, right away and for public disclosure. We have a responsibility to exercise our functions in a prudent way that advances the public interest, which is why the motion is drafted. It seeks documents to be sent to the law clerk and then from the law clerk to the committee for its consideration on what to make public and what not to make public [*Technical difficulty—Editor*].

I believe that this motion is a responsible way of rebuking the illegal pretenses of would-be aristocratic public officials and ensuring that people are held accountable for serious breaches of national security so that we can assure Canadians that these kinds of breaches will never happen again.

Thank you, Mr. Chair.

• (1115)

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

Mr. Genuis, can you confirm the following? The clerk has asked me a question. Is the wording of the motion you presented today the same as the one that you gave notice of?

**Mr. Garnett Genuis:** The motion that I read out is identical to the motion that we gave notice of. If, in any way, it is not, that was an error in my reading of it.

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

I'm not saying that there was. I didn't know if there were any differences.

Members will, I'm sure, be glad to know that they can refer to the notice, which contains the wording of the motion.

Mr. Chong.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** Thank you, Mr. Chair.

Mr. Iain Stewart, in his letter to our committee indicated that he could not release the documents and information we had requested because it was personal information and that the Privacy Act prevents the release of personal information under the control of a government institution.

I don't know what legal advice he got, but I think it's incorrect. He says in his letter that “the Privacy Act provides that personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed except in accordance with the circumstances described in subsection 8(2) of the Privacy Act.”

He then goes on in the letter to indicate and imply that the only way in which he could release that information to the committee was under paragraph 8(2)(g), where the person in question whose information we are seeking would have to consent to that release.

The implication that it's the only way he can release that information is incorrect. I'd like to draw the attention of the committee to, in the same section of the Privacy Act, paragraph 8(2)(c). I will read it out. It's very short.

Article 8(2)(c) states:

(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed...

(c) for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information;

Paragraph 8(2)(c) clearly says that personal information under the control of the Public Health Agency of Canada may be disclosed for the purpose of complying with an order made by a body with jurisdiction to compel the production of information.

We are a body with the jurisdiction to compel the production of information, so I don't know what legal advice Mr. Iain Stewart got, but it is incorrect. We are a body with the jurisdiction to compel the production of information. We adopted a motion calling for the production of that information. That motion is in order to compel the production of information, and the Public Health Agency of Canada needs to comply with that.

In fact, the Privacy Act was written with the Constitution in mind. As you mentioned in your opening remarks, Mr. Chair, it was written with the Constitution's provisions that promulgate the ancient rights and privileges of Parliament, one of which is to compel the production of information and documents.

I will quote from *House of Commons Procedure and Practice*, which describes this power:

The Standing Orders state that standing committees have the power to order the production of papers and records, another privilege rooted in the Constitution that is delegated by the House.

It goes on to state:

The Standing Orders do not delimit the power to order the production of papers and records...There is no limit on the types of papers likely to be requested; the only prerequisite is that the papers exist—in hard copy or electronic format—and that they are located in Canada.

It continues:

No statute or practice diminishes the fullness of that power rooted in House privileges unless there is an explicit legal provision to that effect, or unless the House adopts a specific resolution limiting the power. The House has never set a limit on its power to order the production of papers and records.

Finally, it states:

In cases where the author of or the authority responsible for a record refuses to comply with an order issued by a committee to produce documents.... The third option is to reject the reasons given for denying access to the record and uphold the order to produce the entire record.

● (1120)

In other words, what we are doing today in this motion, if it were to be adopted, is rejecting the reasons that the Public Health Agency of Canada has given in denying this information, and we are upholding the previous request that we made last week. I strongly urge members of the committee to support this motion.

I'll finish by saying this. Speaker Milliken, who was a great Speaker of the House of Commons, reaffirmed these ancient privi-

leges of the House under the Constitution and law to order the production of these papers. He confirmed it in his ruling of 2010 on the Afghan detainee documents, and he confirmed it in his precedent-setting Commonwealth parliamentary ruling in 2011, which set a precedent for parliaments throughout the Commonwealth, that compelled the Harper government to release financial information concerning a range of matters, including the costing of F-35 jets.

I publicly supported Speaker Milliken's ruling at that time, and I am urging members of the committee to uphold the powers of this committee and the House in general and support this motion.

Thank you, Mr. Chair.

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

Go ahead, Mr. Harris.

**Mr. Jack Harris (St. John's East, NDP):** Thank you, Chair.

I want to say first of all that I support this motion. I will have some comment on the wording, but I do wholeheartedly support the motion to obtain the documents requested, and I won't go into all the legalities. I think Mr. Genuis has covered the field, as it were. I will rely on that very important ruling by Speaker Milliken on April 27, 2010, and the ruling of March 9, 2011, which dealt with the Afghan detainee documents.

I first want to thank the Law Clerk and Parliamentary Counsel, Philippe Dufresne, for his excellent exposition of the rules and law on the power to send for persons, papers and records, in his letter to you, Chair, of March 31, 2021. I would commend all parliamentarians to look at it as a concise and thorough exposition of the principles involved. Some of them are legal principles, and they are of course legally binding, but they're also important constitutional principles that govern our Parliament and the right of parliamentarians.

I'm also moved to say that I'm pleased to hear this motion is coming from the Conservative Party of Canada, and supported by Michael Chong, who also supported these rulings back in 2010 and 2011, which were not really supported by his government. His government opposed that, so I'm encouraged by the fact that we now have the Conservative Party of Canada standing strongly and firmly behind these rules as they pertain to the right and duty, in certain cases, obviously, of members of Parliament to have access and to seek access to important documents that are under control of the executive, and under the control of bureaucracies in some cases, and also, the understanding of the principles that are involved.

I think it's a very important exercise that we are looking at today. It behooves us to look at it quite carefully and consider what we're doing and how we are doing it, because I think both of these things are important.

As noted by the law clerk in his paper and letter sent to us, the powers of committees to order the production of documents and records are not limited by law or by the House of Commons' rules of procedure, and Parliament is not, as is pointed out here, bound by the act. As pointed out in the document of a report of the Standing Committee on Public Accounts in 2009, entitled "The Power of Committees to Order the Production of Documents and Records":

The power to send for records has been delegated by the House of Commons to its committees in the Standing Orders of the House of Commons. A committee's power to call for persons, papers and records is said to be absolute, but seldom exercised without consideration of the public interest.

I think that's the nub of what we are doing here today in this motion. We are exercising the rights of parliamentarians to have access to documents and records, and I think they're important. It's not done lightly. As pointed out by Mr. Genuis, the importance of the question at hand is significant, as was the issue that gave rise to the rulings of speaker Milliken in 2010 and 2011, known in shorthand as the "Afghan detainee documents". Those documents were relevant to the question being pursued at the time, namely, whether or not Canada had been complicit in the torture of persons held and detained in Afghan prisons during the war in Afghanistan. It was an extremely important question as to how Canada had undertaken its obligations under international law. So, it's not done lightly, but when it is done, it's done within the powers of the Constitution as expounded by speaker Milliken.

• (1125)

Mr. Chong just said that Speaker Milliken confirmed the existing rules. However, I think it's important to note that decision was probably the first one in all the British Commonwealth of nations, or parliamentary democracies, that had gone so far and detailed on that principle. It's very rare for that level of decision to be made because it's very rare for it to come to that kind of ruling.

We are lucky as a country to have that ruling as a guiding principle. I think, seeing the Conservative Party support for this, it's now well settled that this is the law in Canada and the parliamentary procedure under which we should operate.

Having said that, I'm not going to move the motion right now. I'm going to listen to the debate, but later on I will move a motion to amend paragraph (b) of the order to try to find a way.... We may need to ask questions of the parliamentary clerk as to how this might be done. I'll give you the gist of it now, Mr. Chair, and members of the committee. Rather than asking the law clerk to redact documents, the law clerk should discuss with the committee, in an in camera meeting, the information contained therein, which in his opinion, might reasonably be expected to compromise national security or reveal details of an ongoing criminal investigation, so as to allow the committee to determine which records might be made public or available to the committee, so that committee would be involved in this.

Going back to the Afghan detainee situation, I think it was mentioned before at this committee that one party didn't participate in the examination of the documents after the ruling had been made. I will explain that for the benefit of members of the committee and those who may be paying attention.

That is correct, because what had happened after the ruling was made, in an effort to seek a method of following the ruling that had been made by the Speaker, a committee was struck among all parties in the House. I was a representative on that committee. The committee, by majority, ruled that the committee itself that was looking at these documents or was entitled to these documents would not actually see the documents. Instead, they would be handed to a third party—in that case, former justice Frank Iacobucci—to look at all the documents and make them available to the committee, which he, in his opinion, thought were appropriate to be passed to them. We did not agree with that because it was contrary to the motion.

We believe other measures could have been taken to ensure whatever requirements of national security and the public interest could have been undertaken by the committee.

That is a principle that I want to see upheld in this particular exercise. I did not sign this letter. I see that five members of the committee have done so. I was invited to do so. I urged the mover to proceed with the motion, but I didn't want to be committed to the wording that was contained in it because of the matter that I just raised.

I do think we should have a method for dealing with the public interest in this matter, as we should do as parliamentarians, but to do so in a way that does not accept the limitation on our powers. As parliamentarians we have to be mindful of our obligations and our own oath of office, and that we conduct ourselves in that manner with the assistance, guidance and advice of the parliamentary counsel and legal adviser.

That's the gist of what I have to say. The wording of that motion and perhaps some comment from the other members of the committee and the parliamentary counsel and law clerk would be important to this discussion before I would move a motion on the exact wording.

Thank you, sir.

• (1130)

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

I have on the speakers list Mr. Oliphant and then Mr. Bergeron.

Mr. Oliphant.

**Mr. Robert Oliphant (Don Valley West, Lib.):** Thank you, Mr. Chair. It's good to be back with friends at this committee.

He may be girding his loins right now, but he doesn't need to. I'm not going to be arguing against Mr. Genuis' argument.

I think it is very clear that we have the constitutional authority, as the legislative branch and with the supremacy of Parliament, to order papers and to summon witnesses. I will not argue against that.

I have argued for that in that same time as Mr. Harris was referring to, and I will continue to argue that Parliament has the right to order papers and to summon witnesses and to do that work. The oversight of government, the executive branch, including its administrative branch, is our responsibility. That is not an argument that I will make, and as uncomfortable as I am, I am agreeing with Mr. Genuis in his argument on that.

I'm also not going to argue with Mr. Chong.

When I read the letter from the Public Health Agency of Canada, I disagreed with it. I think there was a confusion between our right as members of Parliament to work on individual cases, such as immigration or CRA cases, and our responsibility to do that for our constituents. However, I do follow the practice, which I think is standard, that we receive waivers from individuals to make sure we can act on their behalf. That makes sure that we are consistent with the Privacy Act.

However, I think the section that Mr. Chong cited is actually more appropriate. I hope that legal counsel to the Public Health Agency of Canada will listen to Mr. Chong on that, and investigate further the right and the responsibility of a parliamentary committee, following under the rules of the House and the purpose of the House to oversee government and its agencies. I'm not going to be arguing with Mr. Chong on that point, as well.

I'm not going to be arguing with Mr. Harris on his point.

I feel that I keep getting further out on a branch, because I'm not arguing with Mr. Harris, too, on his points with respect to Speaker Milliken's rulings on the Afghan detainee papers, which, like Mr. Chong, I supported. However, I was in opposition, so it was a much more comfortable place to be than he found himself in at that time. I also would point out that Speaker Milliken was very judicious in that ruling. He felt that public interest had to come into the responsibility that parliamentarians maintain and that public interest is not always served by us exercising, to the full extent, the rights and privileges we have.

I think that those who were at the foreign affairs committee, when a similar issue was discussed recently, will recognize that I will always want to retain the right of Parliament and its committees to call upon witnesses, and the production of papers. We have that right. We should always retain it. However, like Mr. Milliken in his ruling with respect to the Afghan detainee papers, I think we need to find the most appropriate way to exercise our right and authority in a way that does not undermine the public good.

We have recognized this as an art and not a science. That art is something we need to be very cognizant of. I think we need to pull back from some of the partisanship that I think is behind this motion—though I don't think it's all partisan, as I think there are principles that are at stake as well—and look at the best way to go forward.

I would argue, as Mr. Genuis did, that we have the right. I would also argue that Mr. Chong is correct, that it is an inappropriate understanding of the Privacy Act, always understanding that our constitutional authority supersedes legislative authority. The Public Health Agency of Canada, and all government departments and agencies, are under legislative obligations that are superseded by our constitutional authority. We understand that. However, there are some factors about how we move forward in this particular case that I think we need to take into account.

• (1135)

We absolutely have the right, and that said, I want to thank the law clerk once again for providing in writing his understanding of

our authority, which I find echoes of things he has said in committee before and in advice I have sought from him as a parliamentarian. He is our lawyer, and as a good lawyer he has given us legal advice. However, even though I would reject the Public Health Agency's argument, I want us to exercise more caution with respect to this in a couple of fashions.

First, we understand that there is a police investigation under way with respect to this matter. There are two branches to this request. One has to do with the Public Health Agency of Canada and the other has to do with the RCMP. I am a long-time advocate of parliamentary oversight of the RCMP. I have fought for it in opposition. I will continue to stress that the RCMP needs to be under the oversight of Parliament. It needs civilian oversight too, and I have stressed that time and time again as well. However, when a police investigation is under way that is not yet complete, we have to step back from it and understand that our police agencies, particularly the national police force, the RCMP, have their responsibility to undertake their work.

I'll therefore be asking the law clerk for his advice on this, although not right away. It's just to give him a little notice. Is there a limitation on our access to information as parliamentarians from a police force while an investigation is under way, and should we be cognizant of that? It is very important that we never have any political interference, or even the appearance of interference, in a police investigation. Once an investigation is finished, we have the right and the responsibility to exercise oversight. However, to engage within the context of a police investigation, I think, is problematic. That is one concern I have.

The second concern I have is with respect to national security issues. I haven't seen Mr. Harris' amendment to that yet—I will be interested in it—but my caution on that is twofold.

First of all, I, as an individual MP, do not feel that I have the full base of knowledge to fully understand the national security impact of actions. That's why we have officials. That's why we have experts. That's why we have people who actually do this for their job. They make judgments—perhaps imperfectly, but to the best of their ability—based on what the national security implications of an action are. There are teams of people who do that. The government is full of people doing that, and they are necessarily conservative in their approach because they want to ensure that the safety of Canadians and of Canada's position in the world is guarded and maintained.

We have relationships and we have security issues, and I do not feel that I have adequate information on them or access to all of that information. I don't even have the security clearance to receive it. Also, this is worldwide, and there is always going to be a limitation on what we are able to receive because of that. While we have the right, as I said earlier, whether we exercise that right is very important to the matter of public interest.



• (1140)

The second question I would ask the law clerk about—and this is relevant to the forthcoming amendment by Mr. Harris—is whether he as the law clerk has the competency, staff, and knowledge to determine what is a matter of national security.

I'm going to say I'm naive: I don't know if his office does. That has not been my understanding of the knowledge, experience and expertise of the parliamentary law clerk's office. They have expertise in understanding the laws related to our privilege. They offer us legal counsel as our advocate, absolutely, but whether or not they have the competence and the ability to determine matters of national security.... With all due respect, they may have that ability, but it's not been my experience that they have the knowledge to understand the intricacies of a public safety and national security issue that could be revealed by certain information.

They have shown at the finance committee that they have the ability to look at a redacted document and find reasonableness in the arguments made for the redactions. I think the finance committee found it helpful to have the law clerk look at a redacted document and an unredacted document to ensure that there was a reasonableness factor to that and that criteria were set and established that made sense to the law clerk, so that he could advise the finance committee on the reasonableness.

At the foreign affairs committee, we've also held open the possibility that he could do that on other documents. I think reasonableness with respect to the concept of privacy and the rights of an individual to expect privacy in their engagement or with respect to commercial obligations of sensitive information is absolutely within his realm of expertise.

I am concerned that the decisions with respect to a national security issue may fall outside of that.

I am in really strong agreement with Mr. Genuis' motives and arguments on this. I strongly agree with Mr. Chong's arguments on this and with Mr. Harris, but with a caveat. When Speaker Milliken made his first and very important ruling on the Afghan detainee papers, he didn't simply say that he was going to demand it. He gave Parliament two weeks to engage in a consultative process that involved jurists—there was actually a panel of three, I believe—particularly looking at the documents. He then brought the parties together to reach a memorandum of understanding about how they would go through it.

I understand the NDP chose to not engage in that once they felt that there was going to be any fettered access to the documents. That was their privilege. The other three parties that were recognized in the House at the time did choose it. Then a process was engaged to go through those thousands of pages of paper. It wasn't unfettered access in the end. It was a negotiated agreement among parties to find the best way forward.

I'm in support of Mr. Harris' amendment in theory, which is that we find a method of dealing with this to protect the public interest. I'm just not sure the one he has suggested would be the right one.

I put, then, two questions to the law clerk and the chair can decide when it's appropriate for him to answer.

One is with respect to the nature of this request. Given an ongoing police investigation, are there limits to that? I always hear the term *sub judice*, which I think is.... I'm not a lawyer. I'm a clergyman, so my vocabulary in that respect is limited, but I can preach at length.

The second question is on his understanding of their ability to ascertain national security interests. How would he have that competence in his department?

Thank you, Mr. Chair.

• (1145)

As you can see, I like the idea that we have this right, but I would be voting against this motion if I felt the public interest were not being guarded, because sometimes there are interests that are more important than our right to get information.

Thank you.

[Translation]

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

I have Mr. Bergeron next, and then Mr. Harris again. Then I would suggest we continue with Mr. Dufresne, unless Mr. Bergeron or Mr. Harris suggest that he speak before them.

Mr. Bergeron, you have the floor.

**Mr. Stéphane Bergeron (Montarville, BQ):** Thank you, Mr. Chair.

I was about to begin by saying that Mr. Harris could very well have said that this motion was not signed by just four Conservative colleagues. I also signed this motion, which was moved today. This is entirely consistent with the position taken by the Bloc Québécois on the Afghan detainee issue. So I feel that I'm acting in continuity with the positions taken by my party on these issues in the past.

I must admit that I was concerned to hear Mr. Oliphant say that he saw this as a partisan move. I think he's getting to know me, and he knows full well that I try to stay away from partisan politics in all matters of foreign affairs. So that's not the reason I'm supporting this motion, and I take offence to the fact he would think that.

However, the last words he spoke may shed some light on why he may see partisan motives in this motion. In contrast to his party's position when he was a member of the opposition, Mr. Oliphant seems, without saying so, to be taking the exact opposite view today, now that he is in the government, invoking the best interests of I don't know who to say that perhaps Parliament's power should be limited.

What I find particularly disturbing about this admission in his speech is that he seems to be telling us that the reason we're moving this motion is because we aren't against the decision of a public servant, but against the current government, as if the government were endorsing the decisions made by the public servant.

I never thought that the current government was condoning the decision of the public servant not to answer parliamentarians' questions. If what we're to understand from what Mr. Oliphant told us a few moments ago when he talked about a partisan move, it is that the government is endorsing the public servant's refusal to answer, I find that far more disturbing than it seemed before we met this morning, Mr. Chair.

It will come as no surprise to you that I fully and unreservedly support the motion before us, for the very eloquent reasons stated by Mr. Genuis and Mr. Chong.

I would also like to say to my friend Mr. Harris that I would have liked to have been able to discuss his reservations with him before this morning. I think, contrary to what Mr. Oliphant said, that we have in this motion the guidelines, the parameters or the safeguards that would allow us to avoid harming the public interest by exercising the powers vested in Parliament, particularly in point (b), where we are obliged not to disclose everything publicly. I know that Mr. Harris has a proposed amendment to item (b). I wish I could have discussed it with him, and I'm quite willing to hear what he has to say in a few moments.

• (1150)

I want to reiterate that I believe this motion is balanced, precisely because it contains the safeguards to ensure that the public interest isn't compromised simply on a matter of principle. It isn't true that we're going to sacrifice the very principles underlying the British parliamentary system because the current situation makes the government uncomfortable.

Just a few moments ago, I didn't think the government was concerned about the situation, but Mr. Oliphant seemed to be telling us that the government is concerned about the public servant's refusal to answer. I have to tell you, I'm personally concerned about that. I had no idea until I came to the committee today.

I would like to come back briefly to Mr. Harris' comments. I thought they were just as eloquent as those of Mr. Genuis and Mr. Chong. Mr. Harris said that he thought Speaker Milliken's decision was probably a first in the jurisprudence surrounding decisions in British-style parliaments.

I wouldn't dare to contradict my learned colleague on this issue. I haven't done the research that would allow me to make such a statement. However, having served in another Parliament, I can say that this ruling by Speaker Milliken is a precedent for subsequent rulings by other speakers in British-style parliaments. Of course, I'm referring to decisions made, among others, by Speaker Chagnon in the Quebec National Assembly.

I will close by acknowledging the excellent document that was provided to us by the clerks of the House of Commons. Those of us on the Standing Committee on Foreign Affairs and International Development were pleased to have a similar presentation on the ability of Parliament and its committees to require the government to produce documents.

So I wasn't surprised to find all the arguments in this document, but I would like to emphasize the quality of the document in its conciseness and clarity. I think this document, which is now public,

can be used as a reference for anyone who wants to use it in the future.

This brings me to a conclusion with respect to Mr. Oliphant's comments. He seems to recognize the ability of our clerks to judge a commercial issue, but he seems to be saying that they wouldn't have the ability to judge a national security issue.

Aside from the fact that I find this comment somewhat contemptuous of our clerks, because I believe they're capable of seeking out the expertise they need to be able to advise parliamentarians properly, I believe that, once again, this reflects the government's desire to put a lid on this issue.

Again, I have to say that this concerns me because I didn't think the government had made the issue we're dealing with today a matter that involved it directly. However, since Mr. Oliphant called the motion "partisan", I understand that the government is feeling challenged. It's not the public servant or the agency, but rather the Liberal government that feels challenged by the motion.

I have to tell you that I'm very concerned about this, Mr. Chair. I'm very eager to hear what my other colleagues have to say.

• (1155)

**The Chair:** Thank you very much, Mr. Bergeron.

[*English*]

Mr. Harris, would you like me to go to Mr. Dufresne before or after I go to you?

**Mr. Jack Harris:** Mr. Chair, am I on the list?

**The Chair:** Mr. Harris, you're on the list. Would you like me to go to you before or after I go to Mr. Dufresne?

**Mr. Jack Harris:** Yes, I did want to mention something that might reference what the response might be.

First of all, I thank Mr. Oliphant and Mr. Bergeron for their interventions shedding light on their thoughts on this.

I didn't by any means mean to leave out Mr. Bergeron as a signatory to the letter. I did point out that five members of the committee had signed the letter that I was invited to sign also. The meeting was called in response to a request by four members, but I note of course that five members have signed the letter. I was invited to do so on very short notice and declined to do so in that for the reasons I think I've discussed earlier, and I'm happy we're having an opportunity here today to fully discuss the concerns I had before making a decision. There wasn't time to do that beforehand.

I commend Mr. Bergeron for his recognition of the Milliken case as being—I don't know if I said the first case—certainly the leading case on the matter until then. It was the most detailed and fulsome investigation of the whole notion of the relationship between the executive and the Parliament in the systems we share, including the National Assembly of Quebec. I'm gratified to see that the National Assembly of Quebec itself has rulings that have acknowledged this decision as being an important leading case on which to base its decisions.

We do have to come to grips with the national interest in this committee, either today after the motion is passed, and we meet with the law clerk. I'm wondering out loud whether it might be helpful in response to Mr. Dufresne's comments to have perhaps a little more delimitation from Mr. Genuis.

I know that your motion calls for all papers, documents, all information, etc. Is there any possibility of being a little more specific about what we need information on? What is important that Mr. Dufresne might be able to respond to? These questions, these generalities such as national security, are so general in many cases as to defy an opportunity for someone, in the absence of specifics, to even make a determination on them. I wonder if there's any point—and perhaps Mr. Dufresne might comment on this when he responds—in being any more specific than the motion is right now. Could we at least advise what particular information and knowledge we want to obtain from this investigation?

This has obviously been initiated by the efforts and the questions of Mr. Genuis, and I have an idea, but I would perhaps be better informed if I heard from him what is necessary for us to know to answer his concerns and questions.

I put that out there for consideration. Perhaps Mr. Dufresne can go ahead without knowing that, or we can continue the discussion.

• (1200)

**The Chair:** Thank you very much, Mr. Harris.

I'll go to Mr. Dufresne and then to Mr. Oliphant and Mr. Genuis, or anyone else. Mr. Genuis is on the list, so if that's all right I'll go in that order. That's the proper procedure.

Mr. Dufresne, please.

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you very much, Mr. Chair, and members of the committee.

To address some of the points and questions, it is a constitutional power that you have as committees to seek documents, papers and information, as mentioned and recognized by Speaker Milliken in his ruling. This power, this right, also brings with it responsibilities. There's a responsibility to exercise it reasonably and with care and having public interest impacts and implications in mind. Speaker Milliken in his ruling noted the more than 140 years of collaboration between the House and the executive, the House, in its role as the grand inquest of the nation, and the executive, in that case, in its role of defender of the realm, and balancing these and having regard for these important public interests and concerns.

What Speaker Milliken clarified, however, is that it is for the committees and ultimately for the House to make that determina-

tion in the exercise of that power. The government does not have a unilateral right to make the determination and to have the House essentially be bound by that determination. Even in a case where there are statutory principles that apply, the House's constitutional authority will supersede those.

There were questions about potential impacts on lawful investigations. That's certainly something that's recognized as a public policy concern in the access to information legislation, and it is listed as a ground for redactions under that act. The question becomes, is this something that the committee will accept as one of the reasons—perhaps considering the options of having information in camera and considering whether it should share that information further or keep that information in camera—on the balancing of the interests and reducing any harm to the public interest?

In terms of national security and other grounds, my office acts essentially as the department of justice for the legislative branch and we provide legal services and legal advice to committees on all of their areas of law, including all of those potential grounds for confidentiality that committees and/or the House may decide to accept or not accept. We are prepared and able to provide that legal advice in the interpretation of those concepts, including national security, commercial sensitivity and so on.

That said, there may well be some factual information and knowledge that the government or other entities have that we don't have, because it's their information and their concerns, and they may be well placed to share that with us with regard to proposed redactions or proposed areas of concern. That's certainly something the committee can consider, namely, to have my office provide you with advice on the scope and application of those grounds, but not preventing the government or any witness from proposing and raising a concern—albeit, with this committee, and ultimately the House, still having the last word on accepting or not that interpretation.

• (1205)

**The Chair:** Thank you very much, Mr. Dufresne.

Mr. Oliphant.

**Mr. Robert Oliphant:** Thank you, Mr. Chair.

I almost raised a point of order or privilege—I wasn't sure which—during Mr. Bergeron's intervention, but decided that you would probably rule that it was a point of debate. I do want to say two things.

Firstly, I think in the careful reading of my remarks on there being, perhaps, partisanship, I was very careful also to acknowledge the validity of this motion and its intent. I coupled those very carefully in my remarks to ensure that I understood that this is a valid motion and that, in some circumstances, I think I would be supportive of it.

At the same time, I recognize that there is a wave of requests for documents coming from many committees, which appears, in my mind, to be of a partisan nature. That is my opinion and I will stress it, but I wanted to say that I would say that 95% of my intervention was about the merits of the case being made by Mr. Genuis, Mr. Chong and Mr. Harris.

Secondly, I would say that it felt like a scurrilous attack on character to assert that my reservations about this had to do with information that I felt should be hidden. Nothing is further from my intent as a parliamentarian, and an attack on someone's character is inappropriate and I would like that to be withdrawn and an apology made.

Thank you very much.

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

Mr. Genuis.

**Mr. Garnett Genuis:** Thank you, Mr. Chair.

Some of that is not subject matter that I want to get into the middle of. I'll just say that if we take at face value the expression of intent by all members, which is to get this motion, or something very similar to it, adopted, then in the time we have left I would very much encourage, to ensure that we really deliver on that stated intention, that we get these amendments that have been discussed on the table, for us to be able to proceed to a vote on them as well as on the main motion.

In response to a couple of comments and questions, I would just say very briefly that we need to underline that no public disclosure is triggered by this motion, full stop. No public disclosure of documents is triggered by this motion.

This motion is the committee's sending for documents, creating a mechanism by which it can review the documents, and discussions about the issues and challenges related to national security, ongoing investigations, commercial sensitivity, privacy, whatever, that inform questions about public disclosure. Those are questions we will need to consider carefully and that we will need advice on, but we can't consider them until we have the documents. This motion is about sending for the documents and then allowing us to make a determination at that point. Again, no public disclosure is triggered by this motion itself.

Just in response to Mr. Oliphant's earlier comments, the other point is that we are not seeking documents from the RCMP; we are seeking documents from the Public Health Agency of Canada and its subsidiaries. To questions about ongoing investigations, of course that should inform considerations around what we disclose, but it is important to say and to recall that Mr. Stewart himself said that he didn't have information about the ongoing investigation. Any information about an ongoing investigation is in the hands of the RCMP, and we are not even seeking documents from the RCMP.

Mr. Harris had raised the questions: Do we need all of these documents, and is there some narrowing that we can propose in this motion?

What we need to find out very clearly is why these viruses were sent, the protocols and protections around that, and why these sci-

entists were removed. What were the issues there? What broader questions does this raise for the way in which national security is protected in these sensitive environments?

We have narrowed it to the extent of asking for documents from a particular agency, but I don't really think that further narrowing can be done, because it's only when we see the documents that we'll be able to know what pieces are where, and then to decide what is really important, what can and can't be disclosed, and so forth.

Finally I'll just say that the Conservatives are supportive of the general direction of Mr. Harris' proposed amendment, saying something like these documents would be distributed to members concurrently with their being referred to the law clerk and parliamentary counsel. I think it would be a fairly minor amendment as well if Mr. Oliphant wanted to propose adding in that we would invite advice from other public bodies, at the discretion of the committee, in addition to seeking advice from the Law Clerk and the Parliamentary Counsel on what to disclose. There are other public bodies that would want to provide us with advice in writing.

I assume that the Public Health Agency of Canada would provide us with advice in writing about what to make public and what not to make public, regardless of whether or not we ask for that advice.

Those are all fairly minor points, I think, and we can explore some of these specific issues around disclosure once we have the documents.

The main point is that if we take at face value the stated intention of everybody, then let's make sure that we get this done, because this is clearly important and clearly in the public interest, and at least we have this acknowledgement of the rights of parliamentarians in this case by all members of the committee.

• (1210)

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

Mr. Harris, I was going to ask you if you wanted to propose your amendment, but you've used the raise hand function, and I'll leave that up to you.

**Mr. Jack Harris:** Thank you, Chair.

I want to thank Mr. Genuis for providing some clarification, so that from his comments we are aware of what has specifically raised his interest, and I think the public interest. I'm happy to have that clarification on the record.

I will take this opportunity to move my motion. I move that in paragraph (b) of the motion, we remove the text after the words "Parliamentary Counsel", and replace it with the following:

b) the Law Clerk and Parliamentary Counsel discuss with the committee, in an in camera meeting, information contained therein, which in his opinion, might reasonably be expected to compromise national security or reveal details of an ongoing criminal investigation, other than the existence of an investigation, so that the committee may determine which information is placed before a committee in public; and,

I have simply added some words to the existing motion.

• (1215)

**The Chair:** Thank you very much, Mr. Harris.

Madam Clerk has it. I see a thumbs-up. That's good.

I now see that Mr. Fragiskatos wishes to speak.

**Mr. Peter Fragiskatos (London North Centre, Lib.):** Thank you, Mr. Chair, and good afternoon, colleagues.

I'm tempted to apologize because I missed the first hour. I wasn't able to attend and Mr. Sorbara was sitting in my place. I have been following along, though, and certainly remember the previous meeting we had that led to this one.

From following along to the best of my ability, I still have a concern that we are going down a path that could compromise an ongoing investigation. I think that's a real live issue.

If colleagues want to put forward arguments that can alleviate that concern, I would welcome that, but, at this point, I have not heard anything that would sway my view on this. I've had the concern all along. I think I raised it at the previous meeting.

Opposition colleagues seem to be of a different view. I'm all ears: I would love to hear more. However, I think that before the committee moves in a particular direction here, we have to think very carefully about the need to preserve the integrity, as I said, of an ongoing investigation.

I'll leave that to the committee to consider. Thank you.

**The Chair:** Thank you very much, Mr. Fragiskatos.

Mr. Oliphant.

**Mr. Robert Oliphant:** Thank you very much, Mr. Chair.

I'm predisposed toward the amendment, but I have another concern. I think I want to move a subamendment to that amendment. I think we have a real problem—I don't mean “we” as in the government, but “we” as Canadians—in giving to an agency that is seized with the largest public health pandemic in Canadian history 10 days to find and translate an unknown number of pages of documents.

We have a long weekend upcoming. Friday and Monday are statutory holidays, and I am hoping that our officials will be able to get some time off with their families as well, given the year they've had. To have them comply with this within 10 days, I think is unreasonable, and I think Canadians would see it as unreasonable.

I move a subamendment to change the “10 days” to “30 days”. Perhaps that would then take precedence over the amendment that Mr. Harris has suggested.

• (1220)

**Mr. Garnett Genuis:** Mr. Chair, I have a point of order on that.

**The Chair:** Mr. Genuis, I think you're going to point out that the 10 days is in the main motion, not in the amendment.

**Mr. Garnett Genuis:** Also, it's not in the section that was amended by Mr. Harris. Mr. Oliphant is welcome to raise that as a point of discussion, but it is not germane to the amendment we're currently discussing.

**The Chair:** Thank you.

**Mr. Robert Oliphant:** I will give that as a notice of motion, then. If the amendment is done, I would like to come back to it.

**The Chair:** Thank you. We'll do that, of course.

First, does anyone else wish to speak to Mr. Harris' proposed amendment?

Seeing no one wishing to speak to Mr. Harris' proposed amendment, I would ask the clerk to conduct a vote on it.

**The Clerk of the Committee (Ms. Marie-France Lafleur):** Thank you, Mr. Chair.

If I may, I just have one point of clarification, and perhaps a question for Mr. Harris.

If we change paragraph (b) to what he has proposed, are we still going with paragraph (c) as written in the original motion, which provides for “an in-camera meeting with the Law Clerk, within seven days of the conclusion of his redaction of the documents, in order to determine which documents could be made public”?

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

Go ahead, Mr. Harris.

**Mr. Jack Harris:** Thank you, Madam Clerk, for pointing that out. I guess that would be a consequential amendment. The documents may well be redacted after the meeting that we hold in camera, so I think paragraph (c) would have to be changed as well. Therefore, perhaps we could deal with my amendment first and then make an amendment to paragraph (c) that follows.

If I had been comprehensive, I would have done both at once, but I think the principle that we were pointing out was the important thing to get before and accepted by the House. I can deal with that after this motion is dealt with.

**The Chair:** Thank you.

Madam Clerk, I don't see any problem with going on that basis, do you?

**The Clerk:** No. It's all good.

**The Chair:** Thank you. Please conduct the vote on Mr. Harris' amendment.

**The Clerk:** Absolutely.

(Amendment agreed to: yeas 11; nays 0)

**The Chair:** Thank you. It does carry.

Perhaps I should have asked if anyone was opposed to it. It occurred to me that it was going to be unanimous, but I don't think I was sure of that.

Now I have Mr. Harris again.

**Mr. Jack Harris:** Thank you, Chair.

It seems to me that paragraph (c) is now redundant, unless there's some need to determine when we would then meet to discuss the matter, but that's a different point from what's contained in (c).

Paragraph (c) reads:

the committee hold an in-camera meeting with the Law Clerk, within seven days of the conclusion of his redaction of the documents, in order to determine which documents could be made public;

I think that all of that is subsumed by the amendment to paragraph (b). I would simply move that paragraph (c) be deleted, and paragraph (d) be renamed paragraph (c).

• (1225)

**The Chair:** Thank you very much, Mr. Harris.

Mr. Oliphant.

**Mr. Robert Oliphant:** I'm sorry. I put my hand up to add my earlier amendment. I don't need to speak to this. I'll be supportive of it.

I'm going to keep on the speakers list. Thank you.

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

I don't see anyone else wishing to speak to this motion to amend.

Does anyone oppose this motion to amend?

(Amendment agreed to)

**The Chair:** Now, Mr. Oliphant, it's over to you for your amendment.

**Mr. Robert Oliphant:** Thank you, Mr. Chair.

As I said earlier, I think this places an unreasonable demand on our officials. We don't even know how much work is at stake in this thing, as well as the importance of making sure that the documents are available in both official languages, which is critical. Therefore, I would move that we amend it to within 30 days. If the documents are available before then, that's good, but I would say "within 30 days".

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

I think that is fairly clear.

I think the wording of that motion is clear to you, Madam Clerk. Yes? Good.

I'll have Mr. Harris—that may be a raised hand from before—and then I have Mr. Genuis.

Okay, Mr. Genuis.

**Mr. Garnett Genuis:** Thank you, Mr. Chair.

I'm open to discussion, but the reality is that these documents already exist. We requested information and documents last week at Monday's meeting. The motion calls for the documents 10 days of the adoption of this motion, but we are already about 10 days from the original request for information.

We have cases—for instance, an access to information request from CBC—where documents were provided on this issue in a heavily redacted form. These documents have been requested and compiled before. They were provided in a redacted form. We're asking for them in an unredacted form. The Public Health Agency has already had substantial notice of the committee's interest in this issue.

I don't think it's a correct characterization of the facts to suggest that, all of a sudden now, it's surprising to the Public Health Agency that we want this information and that they have to scramble to get it—far from it. This is an important issue. There are many political

factors going on that might interrupt the work of this committee. I think it is important for us to ask for a clear timeline that reflects the fact that these documents already exist and that the Public Health Agency has known for a long time that we have an interest in them. That would be my general inclination on this.

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

I don't see anyone else wishing to speak at this time.

I guess there is opposition, so we'll have to take a vote—

**Mr. Jack Harris:** I had my hand up.

**The Chair:** Mr. Harris, I'm sorry. You did have your hand up. Pardon me. Please go ahead.

**Mr. Jack Harris:** I hear Mr. Genuis say that he's willing to be persuaded or to compromise. Is there another number less than 30 but greater than 10 that he would suggest as a way of assisting other members in determining how they would vote?

**The Chair:** I have no one else wishing to speak.

Mr. Genuis, yes, I see your hand is up.

**Mr. Garnett Genuis:** I'll just briefly say that I suppose that the members planning on casting the deciding vote can propose the number they think is reasonable.

I just hope that the number of days we apply takes into consideration that there have already been 10 days or thereabout since the original request for information at the original meeting. In effect, I would say that asking for 10 days from the adoption of this motion has given the Public Health Agency 20 days, which is not quite 30 days, but is closer.

Mr. Harris, if you want to propose a number, it seems like you may be the deciding vote here. I would just suggest that, given the fact that the process is far from over once we get the documents, and that we have to then review them and consider what to make public and so forth, we need to try to push this forward in a timely way.

**The Chair:** I have the hand of Mr. Harris still up, I think. Then I have Mr. Oliphant and Mr. Dubourg. I think perhaps, from the indication of the clerk, someone in the room also wishes to speak.

Madam Clerk, who would that be?

• (1230)

**The Clerk:** Mr. Bergeron raised his hand a few minutes ago.

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

I have Mr. Harris, Mr. Dubourg, Mr. Oliphant and Mr. Bergeron.

**Mr. Jack Harris:** I would say we can vote on this of course, and then—

**Mr. John Williamson (New Brunswick Southwest, CPC):** On a point of order, I will testify to Mr. Bergeron's having had his hand up quite some time ago..

**The Chair:** Perhaps the clerk could assist me with the speaking order that she has.

**The Clerk:** If I may, Mr. Chair, I have Mr. Bergeron, Mr. Dubourg and then Mr. Oliphant.

**The Chair:** Fine. All right.

[Translation]

Mr. Bergeron, you have the floor.

**Mr. Stéphane Bergeron:** Mr. Chair, knowing me, you know that I'm always looking to come to a compromise.

Since Mr. Genuis has just told us that the agency has already had 10 days to prepare and that Mr. Oliphant wants us to give the agency 30 days to produce the documents, I'm moving a subamendment to Mr. Oliphant's amendment that we give the agency 20 days, for a total of 30 days, to Mr. Oliphant's satisfaction.

**The Chair:** Thank you very much, Mr. Bergeron.

Mr. Dubourg, you have the floor.

**Mr. Emmanuel Dubourg (Bourassa, Lib.):** Thank you, Mr. Chair.

I listened to the arguments of our colleague Mr. Genuis with interest, but Mr. Oliphant's arguments make a lot of sense.

It isn't the agency that will do the translations, I think it's the Translation Bureau. However, we know that all the committees ask it for translations. So, it really seems reasonable to me to give the agency 30 days to get all the documents to us in both official languages, which is extremely important.

**The Chair:** Thank you very much, Mr. Dubourg.

[English]

Go ahead, Mr. Oliphant.

**Mr. Jack Harris:** Mr. Chair, I was left out of the order there after the order—

**The Chair:** I have you on the list. I appreciate the clerk's assistance. I have you now on the list after Mr. Oliphant.

**Mr. Jack Harris:** You called on me because you thought I was next. You then called on Mr. Bergeron because he was indeed next, as was pointed out, but I think I was to follow Mr. Bergeron.

**The Chair:** That may be. I'm going to have to go back to the clerk to assist me because I may have written it down wrong.

**The Clerk:** I had Mr. Bergeron, Mr. Dubourg, Mr. Oliphant and then Mr. Harris.

**Mr. Jack Harris:** Very well, I'll accept the clerk's....

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

Go ahead, Mr. Oliphant, please.

**Mr. Robert Oliphant:** I will be fast so we can hear from Mr. Harris.

I would still affirm that I do not believe it would be appropriate for an agency to assume that a decision by a committee is necessarily going to happen, so I don't believe that it would be common knowledge that we are going to do anything. To read the mind of a committee would not be a reasonable expectation. Therefore, I would still assert that I think it should be 30 days to give time for appropriate translation and to make sure that the documents are adequately given to us.

Thank you.

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

You're up, Mr. Harris.

**Mr. Jack Harris:** I was intending to speak along the same lines as Mr. Bergeron, noting that 10 days have passed, and these documents have been—or many of them would already have been—subject to an ATIP request, so it's not a searching exercise that goes on.

The next 10 days are non-parliamentary days, which does give time for translation to be under way and work to be done, so a reasonable compromise, I think, would be 20 days or 21 days, taking Mr. Oliphant's outside number.

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

I think we have a subamendment on the floor from Mr. Bergeron to change to 20 days instead of the 30 days Mr. Oliphant proposes.

I don't see anyone else currently wishing to speak.

Did someone oppose the change to 20 days? Perhaps they did.

**Mr. John Williamson:** I'm sorry to interrupt, Mr. Chair.

**The Chair:** Yes, Mr. Williamson.

**Mr. John Williamson:** I was going to suggest 10 working days. When we're now talking 20 days, those are 20 actual calendar days. Is that correct?

**The Chair:** That is my understanding. I think maybe the law clerk could answer that question, unless it is the clerk who should answer.

• (1235)

**The Clerk:** It would be 10 calendar days.

**Mr. John Williamson:** Okay. That's virtually the same as three weeks or the 20 days that Mr. Bergeron suggested.

I mean that 10 working days is almost identical to three weeks. I'm satisfied with 20. That's close enough.

**The Chair:** I think no one opposes the change to 20.

Madam Clerk, please proceed with a vote.

(Subamendment agreed to: yeas 6; nays 5)

**The Chair:** Now we're back to Mr. Oliphant's amendment to the motion, as amended to 20 days. Is there any debate on that?

Mr. Genuis.

**Mr. Garnett Genuis:** I think there's a consensus to adopt it, Mr. Chair.

**The Chair:** I was going to ask that. Does anyone want to oppose adopting that amendment?

**Mr. Robert Oliphant:** Yes, I will be opposing it.

**The Chair:** Not seeing any hands up to speak, I will ask the clerk to take the vote.

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

**The Chair:** We're now back to the main motion, as amended. Does anyone wish to speak to it?

Not seeing anyone wishing to speak to it, I will ask the clerk to conduct the vote on the main motion as amended.

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

**The Chair:** Mr. Genuis.

**Mr. Garnett Genuis:** Mr. Chair, I have a point of order.

The motion we adopted doesn't prescribe a specific timeline for hearing from the law clerk. I hope there would be a consensus in the committee to prioritize in our agenda hearing from the law clerk as soon as possible once these documents are received.

I assumed that would be a given, but I just want to put that out here. We've discussed other business, but I think this should be a priority matter once we receive the documents.

**The Chair:** You're proposing that once we receive the documents, we would probably postpone part or all of the meeting that was scheduled following that to the next date. Is that correct?

**Mr. Garnett Genuis:** Exactly. The proposed discussion with the law clerk would occur right away, once we receive the documents.

**The Chair:** Thank you.

Mr. Harris.

**Mr. Jack Harris:** I think the law clerk should be the one to tell us that he's ready to discuss them. I don't think it should be done immediately upon their receipt. He obviously has to review them and come to his conclusions as to what he sees as matters that ought to be raised with the committee, in his opinion, etc., as contained in the motion. He will probably have to have a little time to look at that. We will hopefully hear from him once he has received the documents and an indication as to when he is ready to provide his advice.

• (1240)

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

That's the same motion that Mr. Genuis has in mind.

Mr. Genuis.

**Mr. Garnett Genuis:** I agree with Mr. Harris, the point being that this be done as soon as reasonably possible. Certainly we wouldn't allow our committee schedule to be the barrier, and we would encourage our law clerk. I know he works very diligently for parliamentarians, but encourage him to be connect with us as soon as he's available. We will certainly make ourselves available as quickly as possible.

**The Chair:** I trust and hope this won't affect his weekend.

Madam Clerk.

**The Clerk:** I have Mr. Williamson in the room who wishes to speak.

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

**Mr. John Williamson:** Thank you.

I have a small detail to confirm. The 20 days take us to April 20, which is easy because tomorrow is April 1. I want to ensure that we're all in agreement that is the day we expect to have the response from the health agency.

I hear, yes, that it is.

My point previously about 10 working days would have taken us to April 16. There's hardly a difference, and I'm very glad we were able to agree on Mr. Harris' amendment.

Thank you, Mr. Harris.

**The Chair:** Thank you.

Seeing no one else wishing to speak at this time, I have the impression there may be consent to adjourn. Does anyone have a problem with adjourning at this time?

I don't see anyone. Therefore, this meeting is adjourned.

---









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

---

### SPEAKER'S PERMISSION

---

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

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

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

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

---

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

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

---

### PERMISSION DU PRÉSIDENT

---

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

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

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

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

---

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