



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

CARRYING OUT MEMBERS' PARLIAMENTARY DUTIES: THE CHALLENGES OF VOTING DURING THE COVID-19 PANDEMIC

**Report of the Standing Committee on Procedure and
House Affairs**

Ruby Sahota, Chair

**JULY 2020
43rd PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committee presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS

has the honour to present its

SEVENTH REPORT

Pursuant to the motions adopted by the House of Commons on Saturday, April 11, 2020, and Tuesday, May 26, 2020, the committee has studied parliamentary duties and the COVID-19 pandemic and has agreed to report the following:

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CARRYING OUT MEMBERS' PARLIAMENTARY DUTIES: THE CHALLENGES OF VOTING DURING THE COVID-19 PANDEMIC

INTRODUCTION

i. Current order of reference: 26 May 2020

On 13 March 2020, in response to the COVID-19 outbreak in Canada, the House of Commons unanimously adopted a motion that cancelled its scheduled sittings until 20 April 2020. Currently, the House stands adjourned until 22 July 2020.

On 26 May 2020, the House of Commons instructed the Standing Committee on Procedure and House Affairs (the Committee) to study conducting business during the COVID-19 pandemic.¹

Under this order of reference, the House proposed that the Committee include the following elements in its study:

- review and make recommendations on how to modify the Standing Orders for the duration of the COVID-19 pandemic, including how to enact remote voting. The Committee's recommendations would form part of an incremental approach to begin holding hybrid sittings of the House, as outlined in the report entitled *Virtual Chamber – A Report in Response to the Statement of the Speaker of the House on April 8, 2020* (Speaker's Report);
- the Committee must present a report to the House no later than 23 June 2020;²

1 House of Commons, *Journals*, 26 May 2020, p. 458-459.

2 Note that on 18 June 2020, the Committee presented its [Report 6](#) to the House of Commons. In this report, the Committee recommends that it be given an extension until 21 July 2020 to present a report in relation to its current study of parliamentary duties and the COVID-19 pandemic.



- any report under the order of reference may be submitted electronically with the Clerk of the House and shall be deemed to have been duly presented to the House on that date;
- following the presentation of any report presented to House under the order of reference, the House leaders of all four recognized parties may indicate to the Speaker that there is an agreement among the parties to implement one or several of the recommendations of the committee and the Speaker shall give effect to that agreement.

In addition, the House's instructions to the Committee specify that:

- it may hold meetings on the COVID-19 pandemic and other matters until 21 September 2020;
- Committee members must attend and witnesses must participate in meetings using either videoconference or teleconference;
- Committee members who attend virtually count for the purposes of quorum;
- all motions must be decided by a recorded vote;
- notwithstanding any deadlines established by the Committee, any request or any order for the production of documents are to be responded to when possible, given the constraints that exist as a result of the COVID-19 pandemic;
- public proceedings must be made available to the public on the House of Commons website,
- in camera meetings can be held for the purpose of considering draft reports or the selection of witnesses, in a manner that takes into account the potential risks to confidentiality inherent in meetings with remote participants;
- notices of membership substitutions pursuant to Standing Order 114(2) may be filed with the clerk of the Committee by email;
- the Committee can receive evidence which may otherwise exceed the Committee's mandate under Standing Order 108;

- the Committee must meet within 48 hours of the receipt by email, by the clerk of the Committee, of a request signed by any four members of the Committee.

ii. Previous order of reference for the Committee during the COVID-19 pandemic

On 11 April 2020, the House of Commons adopted an order of reference to instruct the Committee to study ways in which members can fulfill their parliamentary duties while the House stands adjourned over public health concerns caused by the COVID-19 pandemic.

On 15 May 2020, the Committee presented its Report 5 – Parliamentary Duties and the COVID-19 Pandemic in the House, along with dissenting and supplementary opinions. The report provides information on

- the challenges posed by the pandemic for members in carrying out their parliamentary duties;
- legal and constitutional, procedural, technological and practical considerations of modifying sittings of the House in response to COVID-19;
- modifications to sittings made by legislatures in other jurisdictions (i.e. other countries and Canada's provinces and territories) in response to COVID-19; and
- recommendations for the House to consider regarding guiding principles to follow when considering modifying sittings of the House, legal and procedural matters and future work for the Committee on developing procedures and practices to be used by the House during similar emergencies.

The Committee's Report 5 has not been concurred in and has not yet received a government response, as requested by the Committee under Standing Order 109.



iii. Overview of health data in Canada for COVID-19

As of 16 July 2020, the total number of cases in Canada was 108,829 and the number of deaths was 8,810.³ The Committee notes that currently, while the statistical indicators of the COVID-19 outbreak are trending downward, the virus remains a serious public health threat. To that end, all provinces and territories still have in place differing health and safety protocols, including differing forms of travel restrictions for residents and non-residents, with some provinces requiring self-isolation measures for those entering the province from outside.

According to Canadian public health authorities, most person-to-person transmission of the novel coronavirus with an illness called COVID-19 comes from respiratory droplets.⁴ These can be spread person-to-person from about two metres, while the virus can survive on surfaces for several hours to three days, depending on the conditions and other factors. Further, the virus has a long incubation period of one to 14 days, during which transmission can occur from those showing symptoms and those who are asymptomatic (including those who are pre-symptomatic and post-symptomatic).

iv. Recommendations of note made by the Committee in its Report 5

The Committee wishes to call attention to the following recommendations that it proposed in its Report 5, presented to the House on 25 May 2020. These are

- That these modified Standing Orders only come into force with the agreement of all recognized parties for a determined, agreed-upon period of time, and that this period of time can only be extended if all recognized parties agree; and
- That the House of Commons continue to take an incremental approach, during exceptional circumstances, to the adoption of added parliamentary activities by virtual means, recognizing capacity constraints, the need for testing, and the need for improvements, and that any added parliamentary activities be agreed upon by each recognized party.

3 *Government of Canada, "[Coronavirus disease \(COVID-19\): Outbreak update.](#)"*

4 The contents of this entire paragraph are drawn from: *Government of Canada, "[Coronavirus disease \(COVID-19\): Summary of assumptions.](#)"* updated on 13 April 2020.

BACKGROUND

A. Summary of the Report entitled: *Virtual Chamber - A Report in Response to the Statement of the Speaker of the House on April 8, 2020*

i. Overview

On 8 April 2020, the Hon. Anthony Rota, M.P., Speaker of the House of Commons, gave House administration the mandate to enable the possibility for the House to hold virtual sittings by about mid-May 2020. This follows correspondence, sent on 8 April 2020, between the Speaker and the Hon. Pablo Rodriguez, P.C., M.P., the Leader of the Government in the House of Commons, about the latter's request for information on the House of Commons administration's ability to support and facilitate virtual sittings of the House of Commons.

In response, House administration provided the Speaker with a report that he sent to the government House Leader, a copy of which was shared with the Committee on 11 May 2020. Further, in his appearance before the Committee on 4 May 2020, Mr. Rota stated:

[A]s this committee decides what type of business it would like to see in the House debates and how, whether virtual or some hybrid of in-person and virtual the procedural experts in the House administration will provide the committee with a more detailed proposal on how to accomplish this.⁵

The Speaker's Report proposes, for the House's consideration, a hybrid system for attendance at formal sittings by members. A hybrid sitting would involve the full participation by members in the proceedings, using a mix of members who attend the sitting in-person with those who attend virtually (either by tele- or videoconference). This proposal would allow members to maintain physical distancing measures, as required by the COVID-19 pandemic.

5 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 14, 4 May 2020, 1535 (Hon. Anthony Rota, M.P., Speaker of the House of Commons).



ii. Objectives and assumptions

The Speaker's Report sets out eight objectives and assumptions, along with selected information about them. The following is a summary:

Enable members to participate in person and remotely – Under a model of hybrid sittings, the following individuals must be present in-person in the Chamber or West Block during a sitting: the Speaker or Chair occupant, the Clerk, Table officers, interpreters, and other critical support staff.

Minimize the physical impact on the Chamber – The proposed configuration of new equipment in the Chamber would be implemented to allow for easy removal and minimal physical impact on the existing interior finishings. The design could be used for full in-person sittings or hybrid sittings, with no downtime between the types of sittings.

Professional appearance of House of Commons sittings – The use of videoconferencing to allow members' participation at House sittings carries with it the potential for technological issues to arise. In order to minimize potential issues, House administration will have in place various security measures, including security monitoring that introduces a 10-second broadcast delay prior to public distribution to further mitigate any possible cybersecurity disruptions.

Outline operational arrangements that respect physical distancing requirements – For any sittings of the Chamber, some staff (custodial and physical support, Table officers, procedural clerks, and technical support staff) are required to be on-site. Work would be arranged in a manner that protects the health and safety of all staff on-site.

Be secure and tested – In addition to already heightened cybersecurity monitoring, the House has established numerous controls to ensure security during proposed hybrid sittings. These include a virtual waiting room, that all attendees use House-managed devices, the authentication of participants' identity, the use of Canadian data centres, and geofencing (i.e. a virtual boundary set up around a geographic location). The Speaker's Report notes that the House has conducted simulations and tests of hybrid sittings and its cybersecurity components.

Minimize changes to the rules and practices of the House, where possible – House administration conducted an initial analysis of the procedures and practices of the House and determined that minimal adjustments would be required in order to conduct the deliberative aspects of proceedings virtually. However, further analysis would be required if the House chose to allow for virtual participation of members in its decision-making functions.

Enable members and the House of Commons to evolve the processes over time – The proposed solution of hybrid sittings is designed to allow for flexibility for members in carrying out their parliamentary work. The Speaker's Report notes that adjustments to arrangements and processes can be made at the will of the House and as virtual requirements are better understood.

Planned resumption of conventional Chamber sittings – The Speaker's Report notes that the changes it proposes are temporary and are based on the assumption that the progression of the COVID-19 pandemic would make it unlikely that social distancing measures will end quickly. The hybrid sittings proposed in the Speaker's Report would allow for a gradual return of members without requiring any changes to existing technology. It also allows for fully virtual and hybrid proceedings to be reintroduced if necessary.

iii. Proposed solution

The Speaker's Report proposes to integrate a videoconferencing platform with existing on-site technologies and allow members to participate either virtually or be physically present. Any number of members (subject to physical distancing guidelines) will be able to physically attend sittings in the Chamber, with all remaining non-Chair occupants participating online. Simultaneous interpretation in English and French, as well as in additional languages, will be available.

Media participation – Members of the media would continue to be able to follow House proceedings by connecting remotely and listening to a real-time audio feed, and viewing the proceedings live on ParIVu or CPAC. With hybrid sittings, members of the Press Gallery would also be permitted to attend proceedings in the West Block Chamber, subject to physical distancing protocols.



In-Chamber displays – Two large screens displaying members who are participating remotely would be installed on either side of the Speaker’s Chair, at the south end of the Chamber. In order to respect physical distancing guidelines, simultaneous interpretation booths would be installed in the antechamber and equipped with monitors to enable interpreters to see participants when speaking. Additional monitors and changes would be made as necessary.

Remote-participant view – Through a videoconferencing platform, members would see the video feeds of other remote participants, and real-time video from inside the Chamber.

Changes to roles and responsibilities – Simulations of a hybrid chamber revealed the need for four new administrative roles:

- **Event hosts:** Event hosts would facilitate the remote experience, welcoming participants and confirming their identity; ensuring audio and visual quality of remote participants; and reminding participants how to access simultaneous interpretation.
- **Table officers assisting the Chair: Given the new parameters of the Speaker’s responsibilities, Table officers would be assigned specifically to the Chair to assist with:** Following the rotation list during regular debate and ensure the availability of the next speaker; communicate remote participants’ desires to intervene during questions and comments; confirm the identity of remote participants when they raise a point of order; notifying the Chair of any connectivity issues; and monitor the virtual waiting room and adjudicate access to it.
- **Videoconference operators:** Videoconference operators would play an important role in ensuring the smooth operation of hybrid proceedings by validating members’ audiovisual equipment for functionality; controlling the muting of microphones; and monitoring the rotation list in conjunction with the Table officers assisting the Chair.
- **Cybersecurity, multimedia and IT support team:** Both virtual and hybrid sittings rely on heightened monitoring of the parliamentary network, as well as the implementation and evolution of existing security measures. More information on the requirements of these

positions would be available as the House moves forward towards hybrid sittings.

Multimedia resources would monitor and control audiovisual input and output for participants and broadcast feeds.

A dedicated team of information technology (IT) support personnel would work with members to ensure their comfort with the videoconference platform and provide assistance with the necessary equipment. They would also be available to address technical questions and challenges.

iv. Key procedural issues

The Speaker's Report sets out four categories of procedural considerations, along with two proposed Standing Order changes. The four categories of procedural considerations are: quorum (counting presence of members); tabling of documents, reports and returns; participation by members in proceedings; and decision-making.

- **Quorum (counting presence of members)**

Context: Section 48 of the *Constitution Act, 1867*, sets out that the presence of at least 20 members, including the Chair, is necessary to constitute a meeting of the House for the exercise of its powers. Standing Order 29(1) echoes this constitutional requirement.

Solution proposed in Speaker's Report: An amendment to Standing Order 29(1) could clarify that members participating virtually count for quorum purposes.

- **Tabling of documents, reports and returns**

Context: According to current House practices, tabled documents, reports and returns must be signed original documents. Further, petitions and reports from committees and interparliamentary delegations must also be submitted to the House with an original signature.

Solution proposed in Speaker's Report: An email-based electronic tabling system could be introduced for tabling papers with both Table officers and the Clerk of the House. This electronic tabling system could apply to all documents, reports and returns, regardless of type and be made accessible both to private members and the government.



- **Participation in proceedings**

Context: During a sitting, the Chair oversees the efficient conduct of House business, ensures the rules, procedures and rights of members and the House are protected, and preserves order and decorum. The Speaker’s Report makes a distinction between normal and impromptu business. Normal business of the House is generally predictable and orderly. However, members may raise impromptu points of order, questions of privilege, present petitions and ask questions and make comments following a speech. They may also sign and submit motions in writing.

Solution proposed in Speaker’s Report: For normal business, the Chair could rely on rotation lists submitted by parties. When dealing with “impromptu” business, the use of features built into the videoconferencing system (e.g. the ability to “raise your hand” in Zoom) could be considered, as could closer cooperation with the party whips. For members who want to submit motions, an email address could be established allowing members to provide the House with the text of their motion and amendment in advance. Finally, decorum and order could be preserved by modifying existing powers to allow the Chair to mute the microphones of virtual participants, or exclude members from the sitting. Guidelines could also be established for background visuals behind members participating virtually to preserve the decorum and dignity of the House.

- **Decision-making**

Context: A key function of the House of Commons as a deliberative body is the ability to make decisions. This is currently achieved through unanimous consent, voice votes and recorded divisions.

Solution proposed in Speaker’s Report: For requests of unanimous consent, the Chair must be able to ascertain whether there are any members in opposition. This could be achieved virtually by only asking dissenting members to unmute and say no. For recorded divisions, the Chair must be able to count the five members required, as well as the 10 to 25 members objecting to the adoption of particular types of procedural questions. This could be achieved virtually by asking members to use the “raise hand” feature on the videoconferencing platform. Electronic remote voting could be another method for taking recorded

divisions. The current customs surrounding recorded divisions would need adjusting.

- **Proposed amendments to the Standing Orders**

The Speaker's Report contains wording for two proposed Standing Order changes. The application of these provisions could be narrowed to apply only in emergency situations. The first proposed standing order dealt with a mechanism for authorizing the remote participation of members in House and committee proceedings; the second dealt with authorizing committees to hold virtual meetings during emergencies.

B. Further correspondence from the Speaker to the Committee

In addition to the correspondence from the Speaker of the House of Commons received on 11 May 2020, which included the Speaker's Report, the Committee has also received four further letters from the Speaker.

- On 13 May 2020, the Speaker provided the Committee with a second information note containing further information regarding the adjustments that have been suggested to the House's practices, and proposed modifications to the Standing Orders.
- On 9 June 2020, the Speaker provided the Committee with three additional information notes. Among these, the Committee received a list of suggested changes to the Standing Orders to allow for virtual sittings. The topics of the suggested changes were: the presence of members, Routine Proceedings and orders of the day, the physical setting of the House, tabling and presentations of returns, reports and other papers, committees, recorded divisions and bells, and secret ballots.
- On 30 June 2020, the Speaker provided a report to the House leaders and the Chair of the Committee outlining different options for in-person voting by members that would respect public health guidelines. The report was prepared in response to a letter sent to the Speaker by the House Leader of the Official Opposition. The options included:
 - Queuing: members would walk past table officers to cast their vote. A queued vote would take place in the courtyard space surrounding the House of Commons or, alternatively, the Sir John A. Macdonald



Building. It was estimated that 56 members would be able to line up in each queue.

- Shift voting: members would vote by standing and being called by one of the clerks. However, members would vote in shifts. To comply with physical distancing, a maximum of 86 members would be permitted at any one time and would sit at designated desks.
- Block voting: Under this approach, one representative from each political party would vote on behalf of their membership. Given that this method does not require all members to be present, the length of bells could be shortened to 15 minutes for all recorded divisions.
- Proxy voting: Individual members would designate one of their colleagues to vote on their behalf. While the designated colleague need not be the party whip, it should be someone who is physically present in the Chamber. Members would designate their proxy using an electronic form and determine the period for which it would be valid.
- Pairing of Members: House of Commons practice allows members unable to be present for a recorded division to neutralize their absence by pairing a member from the government and a member from the opposition.
- On 2 July 2020, the Speaker provided the Committee an information note on remote and electronic voting. The note states that an electronic voting system, which leveraged the House's existing portfolio of technologies could be ready for use by members quickly. This system could include:
 - Vote notification: To ensure that all members have the same awareness of imminent votes and have time to prepare to exercise this function.
 - Transport of information exchange: Incorporate end-to-end encryption and enhance the House's powerful monitoring technologies to identify and prevent the fulfillment of non-legitimate network requests early. All activity in the system would also need to be recorded in immutable logs.

- Authentication of the member: The electronic voting solution could integrate various methods of authentication simultaneously, including the validation of a member's assigned parliamentary account, the use of a House of Commons-managed device and biometrics.
- Casting and confirmation of the vote: A dedicated, secure application could be used by member to read a motion and cast their vote. Members would receive confirmation of their respective votes and of the results through a secure and encrypted messaging platform and by email to their personal parliamentary accounts.
- Recording and archival of results: Votes would be recorded in House databases, and once entered and verified, would be unchangeable unless otherwise ordered by the House.
- Publication of the results: Any votes cast electronically will be published in the official records of the House (*Debates and Journals*) and on the votes website.
- Auditability of and changes to the system: Every interaction with the mobile electronic voting application or the wider House of Commons voting system would be logged and traceable.
- Availability of the system: Any electronic voting system would incorporate multiple redundancies that enable it to recover from the various potential failures
- Supply chain: The House of Commons must use technologies that have the appropriate security certifications and permit the House Administration and its security partners to perform the appropriate audits in order to mitigate any malware being embedded at the point of source, during a change or at any stage in the supply chain.

The note further sets out how roll-call voting using videoconferencing software could be realized. This system could include:

- Validation of vote: All members participating remotely would be required to have their video turned on when they announce their vote to enable table officers to validate their identity. Members



would have to clearly and slowly state their voting preference so it could be accurately recorded.

- Connection to meeting: Members would be required to be connected to the meeting at the time the roll-call vote begins.
- Notifications: Notifications could be sent to members' mobile devices to inform them of an upcoming vote.

EVIDENCE

A. Legal considerations

i. Quorum

During the Committee's previous and related study on members' parliamentary duties during the COVID-19 pandemic, the Committee heard the views of numerous witnesses on the topic of quorum in Canada's House of Commons. To consult this information, please see subsection [iii. Quorum in the House of Commons](#) in the Committee's Report 5.

Section 48 of the *Constitution Act, 1867*, sets out that:

The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers, and for that Purpose the Speaker shall be reckoned as a Member.

Philippe Dufresne, House of Commons Law Clerk and Parliamentary Counsel, told the Committee that the determination of how the constitutionally mandated presence of members is counted at a sitting of the House belongs to the House alone under its authoritatively established parliamentary privilege over debates or proceedings in Parliament.⁶ Gregory Tardi, Institute of Parliamentary and Political Law, gave legal advice about quorum at his appearance before the Committee⁷ that was similar, if not identical, in substance to Mr. Dufresne's.

6 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 10, 21 April 2020, 1250 (Philippe Dufresne, Law Clerk and Parliamentary Counsel, House of Commons).

7 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 11, 23 April 2020, 1305 (Gregory Tardi, Institute of Parliamentary and Political Law).

The Committee heard the following statements from Mr. Dufresne on the subject of quorum:

[C]ourts have recognized Parliament's autonomy and exclusive jurisdiction with respect to its proceedings, which include the Standing Orders, sessional orders and Speaker's rulings. Consistent with the separation of powers, courts will be very reluctant to get involved with anything relating to parliamentary procedure and practice.⁸

While the question has not yet been decided by courts, in my view, if the House were to amend its Standing Orders and adopt a sessional or special order to accept the virtual presence of members for the purpose of quorum such as a procedural decision would be constitutionally valid as it would fall within the House's exclusive jurisdiction over the management of its internal parliamentary proceeding.⁹

That being said, should the House wish to remove even the possibility of a legal debate on the matter, the House could decide to hold votes on the adoption of legislation with the physical presence of at least 20 members. Lastly, Parliament could amend section 48 to indicate that for greater certainty, virtual presence is considered presence for the purpose of section 48.¹⁰

The House, its internal procedures and rules as contained in the Standing Orders or special orders where Speakers rulings are protected by parliamentary privilege and cannot be questioned by the courts or any place outside of Parliament.¹¹

The Committee notes that Mr. Dufresne acknowledged that the courts may disagree with this interpretation potentially invalidating anything adopted by the House.¹²

Further, Benoît Pelletier, University of Ottawa stated that the legislative codification of the privileges, immunities and powers found in section 4 of the Parliament of Canada Act can exceed those existing in the United Kingdom (U.K.) because section 44 of *Constitution Act, 1982*, grants Canada's Parliament the exclusive right to amend its Constitution in relation to, among other things, the House of Commons.¹³ Mr. Tardi also added that, in his view, quorum ought to be viewed today as being based on

8 Dufresne, 1245.

9 Ibid.

10 Ibid.

11 Dufresne, 1250.

12 Ibid.

13 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 11, 23 April 2020, 1305 (Benoît Pelletier, University of Ottawa).



participation, as a kind of virtual meeting of minds, rather than a simultaneous physical presence of members.¹⁴

ii. Voting

Section 49 of the *Constitution Act, 1867*, provides that:

Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

The Committee heard very little evidence of a legal nature on the considerations of voting during its current study. During the Committee's previous and related study on members' parliamentary duties during the COVID-19 pandemic, the Committee heard the legal views of some witnesses on the topic of quorum in Canada's House of Commons.

Emmett Macfarlane, University of Waterloo, expressed his view that distance voting likely requires amending sections 48 and 49 of the *Constitution Act, 1867*. This was because, in his view, section 48 referred to the presence of members for quorum and section 49 implied a member's physical presence in the House for voting purposes.¹⁵ He approached this matter by stating that "[o]ne of the biggest obstacles to online voting by members is possibly the Constitution."¹⁶

Conversely, Benoît Pelletier, University of Ottawa, told the Committee that in his view, the *Constitution Act, 1867*, did not require members to be physically present to vote and that votes in the House could be held virtually.¹⁷

The Hon. Gordon Barnhart, former Clerk of the Senate, stated that electronic voting would be "well within the rules" if the system was designed to show how many people have voted and how they have voted.¹⁸

14 Tardi, 1305.

15 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 11, 23 April 2020, 1240 (Emmett Macfarlane, University of Waterloo).

16 Ibid.

17 Pelletier, 1330.

18 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 13, 30 April 2020, 1255 (Hon. Gordon Barnhart, former Clerk of the Senate).

B. Procedural considerations

i. (a) Creation of sessional changes to Standing Orders (i.e. formal Standing Order changes of a fixed duration)

On the matter of the duration of potential Standing Order changes being studied by the Committee, the Committee heard unanimously from witnesses that these should have a fixed expiration date. Some witnesses also noted the usefulness of continual preparedness for potential future similar emergencies of the type that could hinder the House's ability to hold in-person sittings in Ottawa.

For example, Mr. Bosc, former Acting Clerk of the House of Commons, stated that it was reasonable to expect the House to have in place the option for virtual voting, on a temporary basis, during this pandemic and exceptional circumstances, given the health risks.¹⁹

The Hon. Mike Farnworth, Minister of Public Safety and Solicitor General of British Columbia and Government House Leader, told the Committee that the modifications to the rules being put in place at British Columbia's Legislative Assembly to deal with the COVID-19 pandemic were being enacted by a sessional order.²⁰

In terms of which Standing Order changes would need to be made in order to provide for hybrid sittings, Mr. Rota told the Committee that there was not many changes that needed to be made; rather, the matter of how to proceed revolved around getting agreement among the members on what they will accept.²¹

ii. (b) The need for thorough study prior to making permanent modifications to the Standing Orders

Witnesses told the Committee about the importance of the need to thoroughly study how the pandemic affected the operations of the House prior to putting place any permanent modifications to the Standing Orders.

19 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1210 (Marc Bosc, former Acting Clerk of the House of Commons).

20 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1335 (Hon. Mike Farnworth, Minister of Public Safety and Solicitor General of British Columbia and Government House Leader, Legislative Assembly of British Columbia).

21 Rota, Meeting 27, 1120.



Mr. Bosc, former Acting Clerk of the House of Commons, stated that “any longer-term application of rule changes...requires a more in-depth committee study either by your committee or by a special committee.”²² The Hon. Bill Blaikie, former Deputy Speaker of the House, added that the work of the Committee should not set precedents for how “normal parliamentary life should resume” after the pandemic.²³ Mr. Macfarlane stated “[p]rovisions for virtual participation should be regarded as a temporary stopgap measure to ensure Parliament can continue to play its fundamental role to the best degree possible, but they cannot replace an in-person Parliament during normal times.”²⁴ Sue Griffiths, Global Partners Governance, stated that “I would add sunset clauses or temporary Standing Orders that lapse unless they’re renewed; all of those kinds of things can provide a safeguard.”²⁵

Along the same lines, the Committee also heard, in its previous but related study, that Dr. Christine de Clercy, University of Western Ontario, and Mr. Barnhart, former Clerk of the Senate, expressed the view that any changes made to the Standing Orders during the COVID-19 pandemic ought to be temporary in nature.

Further, the Committee heard that changes to procedure can lead to creating unintended consequences.²⁶ Kevin Deveaux, Deveaux International Governance Consultants Inc., along with Mr. Bosc and Mr. Blaikie, cautioned that remote participation in parliamentary proceedings could result in the unintended erosion of instances for personal interaction between members in the Chamber or on the parliamentary precinct.²⁷ In contrast, however, the Rt. Hon. Harriet Harman, M.P., noted that new technology has resulted in new forms of personal interaction, without some of

22 Bosc, 1130.

23 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1135 (Hon. Bill Blaikie, former Deputy Speaker of the House of Commons).

24 Macfarlane, 1245.

25 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1240, (Sue Griffiths, Executive Director, Global Partners Governance).

26 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1110 (Dale Smith, journalist and author); and House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1115 (Kevin Deveaux, Deveaux International Governance Consultants Inc.).

27 Bosc, 1135; Blaikie, 1105; Deveaux, 1115; and Smith, 1110.

the “clubbiness” and “toxic culture” that had previously excluded full participation by some members.²⁸

Mr. Dale Smith, journalist and author, stated that, in his view, the Committee’s Report 5 mentioned that hybrid sittings and remote voting could be used to explore the modernization of the rules of the House of Commons and that suggestions made in the report mirror those that were made in previous Parliaments and were rejected.²⁹ He, therefore, likened the creation of even temporary Standing Orders to the unexpected troubles found by opening Pandora’s box.³⁰

Similarly, Greg Power, Global Partners Governance, expressed concern that temporary or permanent changes to the rules of a legislature can lead to the slow erosion and subtle shift in the balance of power over time, and changes the ability of a Parliament to hold government to account.³¹ Ms. Harman suggested that changes in the balance of power necessitated by virtual sittings could in fact be to the benefit of accountability. In her view, in the absence of the types of interruption, jeering and jostling that occur during fully in-person sittings, better, “more forensic” questions and answers have occurred.³² Further, backbench members are visually on par with those in the front benches, with the result they “look less junior and deferential” than when they are an anonymous “microdot” in the background.³³

Mr. Blaikie noted a specific concern regarding the long-term consequences of electronic voting. He described,

[W]e would lose that time in the parliamentary life when the bells are ringing, people are on the floor and a lot of business is done. When the bells are ringing and people are gathering, it's a time for members to go over and talk to people on the other side, to talk to cabinet ministers that they may have no other access to...³⁴

28 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting, 12 June 2020, 1120 and 1135 (Rt. Hon. Harriet Harman, M.P., U.K. House of Commons).

29 Smith, 1110 and 1205.

30 Smith, 1110.

31 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1335 (Greg Power, Founder and Board Chair of Global Partners Governance).

32 Harman, 1105.

33 Harman, 1110.

34 Blaikie, 1125.



Similarly, the Rt. Hon. Karen Bradley, M.P., Chair of the Procedure Committee in the U.K. House of Commons stated that an important feature of the in-person voting procedure used in the U.K. House of Commons was that the close physical proximity of members allowed them to “doorstep” or have informal access to cabinet ministers.³⁵ She also stated:

We always said that we shouldn't introduce any procedural change during the pandemic...but we shouldn't introduce something that then becomes the de facto procedure of the House of Commons. The House of Commons in normal times needs to look at its procedures and make decisions around them, but decisions around procedure during the pandemic should be very time-limited, strictly temporary and particularly to deal with the specifics of this pandemic.³⁶

Mr. Deveaux also discussed possible disadvantages of virtual voting. He stated that it could create a tendency for some members to stay in their constituencies more often. He cautioned that if virtual voting becomes a permanent option, a “two-tier system of MPs” could emerge, where members who participate in Ottawa may have more influence than those who participate remotely.³⁷ Ms. Harman, however, identified certain advantages to virtual voting, including that it could help increase participation by those for whom travel to Parliament is more onerous, including members with disabilities and with young children.³⁸ She also highlighted that virtual voting could make the electorate feel more connected to their representatives, in that seeing members in their own homes and ridings brings to life that Parliament is not just one institution in the capital but is rather the coming together of hundreds of constituencies.³⁹

iii. Hybrid sittings that replicate all procedural elements of House sittings and committee meetings

Many witnesses discussed the importance of maintaining and supporting a Parliament’s full array of powers, both in the Chamber and in committee meetings. Mr. Rota stated

35 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1135 (Rt. Hon. Karen Bradley, M.P., Chair of the Procedure Committee, (U.K. House of Commons).

36 Bradley, 1130.

37 Deveaux, 1115.

38 Harman, 1135.

39 Harman, 1105.

that the goal of hybrid sittings of the House of Commons was to “continue business as usual but done a little bit differently.”⁴⁰

Mr. Blaikie spoke in favour of expanding the business dealt with in the House at current to include opposition days and take-note debates. He noted that opposition days could not occur until voting could take place.⁴¹ He further stated that if the current measures continue for a longer period of time, “Parliament in general and the Committee in particular might want to look at ways to incorporate things that were not incorporated into the [current] agreement.”⁴²

Michael Morden, Samara Centre for Democracy, agreed that “it’s a necessary step in the immediate term, and a prudent step for the middle term, to institute capacity to resume full parliamentary business with remote participation” and added that Samara was in favour of the House of Commons resuming full parliamentary business with remote participation as quickly as is feasible.⁴³

Ms. Griffiths stated that while most global parliaments had implemented a “scaled-down version” of pre-pandemic business, many have been increasingly replicating the procedural elements that existed pre-pandemic, with modifications.⁴⁴

At the U.K. House of Commons, Ms. Harman noted that all normal procedural functions of the House were available immediately in the virtual sittings. She explained that the House “had the whole structure [of pre-pandemic sittings], but it was unrecognizably changed in procedure.”⁴⁵

iv. Inclusive testing of procedural and practical changes

Witnesses from the Legislative Assembly of British Columbia and the U.K. House of Commons indicated to the Committee that an important component for delivering hybrid sittings under modified procedures was the use extensive testing.

40 Rota, Meeting 19, 1140.

41 Blaikie, 1105.

42 Blaikie, 1140.

43 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1125, (Michael Morden, Research Director, Samara Centre for Democracy).

44 Griffiths, 1310.

45 Harman, 1200.



In British Columbia, staff of the Legislature worked closely with committee chairs, deputy chairs and members to establish clear protocols for the conduct of meetings, to test the videoconference platform and to conduct trial runs.⁴⁶ These mock sessions helped identify practical issues that needed solving. Mary Polak, Official Opposition House Leader, further stated that co-operation and collaboration were crucial elements to their work.⁴⁷

Similarly, Matt Stutely, Director of Software Engineering, U.K. Parliament, told the Committee that in devising their remote voting system, numerous tests, demonstrations and training sessions were held. Many members participated in these internal tests, including two select committees, ministers, House leaders, whips and other key stakeholders.⁴⁸ Ms. Bradley affirmed the importance of testing the system used for remote voting in the U.K. House of Commons by noting that such testing proved that the system they deployed was very robust and very secure.⁴⁹ She further lamented that by extending the proxy voting system for use during the pandemic period, before experimenting with a trial period, the House was “trying to do some things without having been through the proper processes”⁵⁰

Similarly, Ms. Harman underlined the need for testing by noting that the U.K. House of Commons conducted three tests: the first test revealed a whole load of mistakes, in the second test there were fewer mistakes, and by the time the system was launched, it worked flawlessly.⁵¹

Dr. Guy-Vincent Jourdan, University of Ottawa emphasized the need to include non-technical users in the testing, in addition to IT experts.⁵²

At its meeting on 6 July 2020, the Committee sought and received a commitment from the House of Commons administration about conducting thorough and inclusive testing

46 Farnworth, 1245.

47 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1300 (Mary Polak, Official Opposition House Leader).

48 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1125 (Matt Stutely, Director of Software Engineering, U.K. Parliament).

49 Bradley, 1125.

50 Bradley, 1145.

51 Harman, 1155.

52 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1315 (Guy-Vincent Jourdan, Professor of Computer Science, University of Ottawa).

for any new type of voting system or procedure that the House adopts in response to the pandemic. Stéphane Aubé, Chief Information Officer of the House of Commons, told the Committee that House administration would thoroughly test any new voting system or procedures and that they would collaborate with whips' offices to ensure the involvement of members of the House in the testing.⁵³

v. Tabling of documents, reports and returns

The Speaker's Report calls to attention that, under House procedures during non-pandemic periods, tabling of statutorily or procedurally required documents, reports and returns is permitted, and in certain instances, required.

The Committee heard that the U.K. House of Commons has, for about the past three years, used a secure web platform called "MemberHub." This system allows members to electronically table oral and written questions and sign motions.⁵⁴ About two-thirds of members were tabling questions through the MemberHub. As this platform permits access by members' staff, U.K. House IT discovered that about half of the members were personally using the platform, while the other half had delegated this task to their staff. As such, training on the use of the MemberHub platform was an important component of the work done by House IT in the U.K.

The Speaker's Report notes that, prior to the outbreak of the pandemic, the House had made steps toward allowing documents to be transmitted electronically, referring to the House's decision in 2019 to accept electronic responses to petitions.⁵⁵

The Committee notes it received correspondence on 20 April 2020 from Tom Korski of the Blacklock's Reporter. He recounts difficulties he experienced in accessing a public document entitled Inquiries Of Ministry that was tabled in the House of Commons on 11 April 2020. As of 20 April 2020, Mr. Korski had not been able to access the document in question.

53 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 27, 6 July 2020, 1240, (Stéphane Aubé, Chief Information Officer of the House of Commons).

54 Stutely, 1125.

55 Rota, Meeting 19, 1110.



vi. Oral interventions by members

During debates, the Speaker is responsible for deciding the order in which members are recognized. The Standing Orders do not prescribe an order for recognizing members; rather, the Speaker relies on practice and precedents.⁵⁶ Members who seek the floor can try to “catch the Speaker’s eye” to be accorded the right to speak, subject to the House adopting a motion under Standing Order 62 that a specific member be now heard or do now speak.

Addressing situations where members participating remotely in a sitting may wish to catch the Speaker’s eye, Mr. Rota stated that the technology currently being used allows for members to virtually “raise their hand,” creating an on-screen list for the use of the Chair occupant. He also stated that a member participating virtually can at any time unmute and raise a point of order. He noted that, in his view, sightlines in the physical House can make it difficult to see every member who wants to speak. As such, there were pros and cons to both in-person sittings and hybrid sittings, when it came to members wishing to make impromptu interventions.⁵⁷

vii. Order and decorum

The Speaker is responsible for maintaining order and decorum during sittings, according to the procedures and practices that the members themselves create. The importance of maintaining order and decorum in the conduct of House business is that this helps to ensure efficiency, predictability, dignity and civility of proceedings.

Mr. Rota stated that parliamentary privilege was, in his view, the biggest issue that the House had to consider.⁵⁸ He further suggested that the Chair’s responsibility to preserve order and decorum in a virtual sitting would be comparable to the Chair’s responsibility in a physical sitting. For example, he noted that in a virtual sitting, as with in-person sittings, the Chair occupant needed to ensure that members did not use displays or props, and kept their microphones off until recognized by the Chair.⁵⁹ Mr. Rota noted the current practice during in-person sittings is that all microphones are muted when the Speaker stands in the House, and having the ability to mute all microphones virtually,

56 Marc Bosc and André Gagnon, eds., “[Recognition to Speak](#),” Chapter 13 in *House of Commons Procedure and Practice*, 3rd ed., House of Commons, Ottawa, 2017.

57 Rota, Meeting 19, 1145.

58 Rota, Meeting 11, 1155.

59 Rota, Meeting 11, 1110.

in his view, was no different.⁶⁰ The Committee notes that during in-person sittings, members who have their microphones shut off can nonetheless be heard in a non-amplified manner in the Chamber.

viii. Decision-making (voting)

(a) General information

The will of the House is ascertained by means of a vote.⁶¹ Under the *Constitution Act, 1867*, a simple majority of members present is required to adopt or defeat a question. When the Speaker puts the question, the will of the House can be ascertained several ways: a motion can be carried or negated on division, a voice vote can be taken, or a recorded division can be taken. Further, the procedures and practices of the House allow for the use of unanimous consent as a mechanism for decision-making.

As an overarching principle, all witnesses who were asked about the importance of having predictability in the timing of recorded divisions expressed the view that that the timing of any remote or virtual voting needed to be widely-known among all members and predictable.⁶²

During its previous but related study, the Committee received a copy of a letter sent by Ms. Bradley to the U.K. Speaker of the House of Commons. In it, she noted that with remote participation, it was vital that members were able to keep in touch with the proceedings in the chamber and receive notifications of remote divisions through a number of channels, including from the House and party whips.

Mr. Rota identified certain key elements, for the Committee's consideration, about potential remote voting systems for use by members to take decisions on questions before the House of Commons. In general terms, Mr. Rota stated that members must know when they are voting, what they are voting on, and how much time they have to vote. Further, the voting system must meet accessibility standards, be available in both official languages, and should allow accurate results to be provided promptly to the Chair.⁶³ Any system should allow results to be given to the Chair quickly and accurately.

60 Rota, Meeting 19, 1155.

61 Marc Bosc and André Gagnon, eds., "[Decisions of the House](#)," Chapter 12 in *House of Commons Procedure and Practice*, 3rd ed., House of Commons, Ottawa, 2017.

62 See for example Blaikie, 1105.

63 Rota, Meeting 11, 1115.



Mr. Rota noted that the House administration had tested remote voting and found that they were technologically ready for remote voting.⁶⁴

Mr. Rota noted that it would be up to the House to decide, for hybrid sittings, whether members who were physically present should also vote electronically or not, to ensure all members were treated equally.⁶⁵ He also stated that “members must decide what they want to implement. If they decide they don't want the system, no one can force them. Personally, I don't want to force this.”⁶⁶

Mr. Aubé told the Committee that, in terms of the time it would take to ensure the accurate tabulation of a recorded division, mixing a remote or electronic voting system with in-person voting would increase the time it took for tabulation.⁶⁷

Mr. Bosc stated that, in his view, the ability for members to vote was the missing piece preventing the full return of the House Commons in a hybrid form.⁶⁸

(b) Options

In his appearance before the Committee on 6 July 2020, Mr. Rota provided information on a potential remote voting system, as described in correspondence that he sent to the Committee on 2 July 2020. Mr. Rota also told went over several ways members could vote in the parliamentary precinct in-person during the COVID-19 pandemic, as described in correspondence he sent to the Committee on 30 June 2020. Mr. Rota told the Committee that the House administration was committed to providing the best possible support to all members.

According to Mr. Rota, the electronic voting framework that the House had begun to design was mobile and would only be for use on devices managed by the House of Commons. He stated that the integrity of the voting process was fundamental to the legitimacy of Canada’s parliamentary democracy and that the security of the proposed solution was paramount This system would be:

64 Rota, Meeting 11, 1150.

65 Rota, Meeting 11, 1115.

66 Rota, Meeting 19, 1205.

67 Aubé, Meeting 27, 1135.

68 Bosc, 1130.

- fully bilingual and meet the House of Commons' accessibility standards; and
- include notifications to alert members through secure channels when a vote is to occur.⁶⁹

The Committee also heard from Mr. Aubé that the House currently possessed several tools that could be used to better ensure that it was a member who cast a remote vote, such as electronic signatures, encrypting an email and/or taking a picture of the person who voted.

In terms of voting in-person, Mr. Rota told the Committee that the House administration had analyzed several options. These were:

- An adaptation of the Westminster practice of queuing. Under this method, members would form two lines in the courtyard outside the Chamber and for the tally to be recorded by table officers.
- Holding the vote in the Chamber, with members arriving and departing in several shifts to respect the maximum number of persons allowed in the Chamber at any one time. Adaptations of this approach would also include block or proxy voting.
- Conducting votes outside of West Block and at a larger location, such as the Sir John A. Macdonald building.⁷⁰

Mr. Rota told the Committee that any new procedure for voting by members would be tested and ready for Parliament's scheduled return on 21 September 2020.

Mr. Blaikie recommended that the Committee consider block voting—a form of voting in which party whips indicate how their members are voting on any particular division, with provision made for members who may dissent from their party to cast their own vote.⁷¹ Mr. Bosc added that he did not believe that an individual member could be forced to submit to block voting and emphasized that other options would have to be made available for members.⁷²

69 Rota, Meeting 27, 1105.

70 Rota, Meeting 27, 1110.

71 Blaikie, 1125.

72 Bosc, 1210.



Proxy voting, where a member delegates his or her voting power to another member to vote in his or her absence, was also recommended to the Committee.⁷³ Mr. Deveaux recommended this method of voting as it would not require virtual or electronic voting to take place as, in his view, electronic voting in other countries can be very complicated. He added that this method of voting should not be a permanent change and be permitted only during a national emergency.⁷⁴

Mr. Morden noted that members are representatives of their communities and there is an accountability function to being visibly seen committing their votes.⁷⁵

Mr. Bosc suggested a blend of voting options be available to members. He said that in-person, remote and proxy voting options should be made available to members to promote maximum participation.⁷⁶ Similarly, Ms. Harman also recommended a flexible system including in-person, remote and proxy voting options.⁷⁷

At the U.K. Parliament, the Parliamentary Digital Service developed an in-house electronic voting system for use by the House of Lords and House of Commons. The voting system built on the electronic vote tabulation system that existed in both chambers to record votes.⁷⁸ The rationale for building the system in-house was that members would be familiar with software platform, as it was pre-existing. The Committee heard a description of the process put in place at the U.K. House of Commons for remote voting. In essence, the system works as follows: a recorded division begins and members receive a notification by text or email; members log onto the system and casts their vote; the screen shows the time remaining; members are asked to confirm their vote a second time; and members receive a receipt by text or email of their vote.⁷⁹

Two key considerations in the design of the system were ease of use for both members and staff and cybersecurity.⁸⁰ In terms of user-friendliness, the voting system was designed as an addition to the existing suite of services made available to members

73 Deveaux, 1120.

74 Deveaux, 1140.

75 Morden 1215.

76 Bosc, 1205.

77 Harman, 1155.

78 Stutely, 1125.

79 Stutely, 1215.

80 Stutely, 1125.

through a parliamentary software platform called “MemberHub.”⁸¹ Security for the voting system involves a multi-factor authentication process used to access this system, which is complemented by a dedicated cyberteam that monitors the parliamentary network at all times.⁸² The level of security was further verified by the U.K.’s National Cyber Security Centre, a governmental organization that informs the public and private sectors on avoiding cybersecurity threats.⁸³

ix. Collaborative approach for setting House business

In normal circumstances, the common practice of the House during sitting weeks is for the whips and all House leaders to meet weekly to discuss the business that the House will undertake.

Mr. Blaikie added that there is nothing to prevent House leaders from meeting virtually. He added that “the committee can recommend that or House leaders can take that up among themselves.”⁸⁴

Mr. Deveaux recommended that the Committee consider establishing a temporary business committee, similar to the Parliament of New Zealand’s Business Committee. The Committee’s membership would consist of House leaders from recognized parties and it would be chaired by the Speaker. Mr. Deveaux noted that the Committee would be tasked with achieving cross-party consensus on the agenda for the order paper, length of debate, and other matters that could make the functioning of a hybrid House more efficient.⁸⁵ He also noted that the personal relationships and dialogue between members are the grease that oils the machine of politics in Canada, and that when this breaks down, Parliament becomes more acrimonious.⁸⁶

Mr. Smith cautioned the Committee that a result of creating such a committee could be that House business would be subject to time allocation.⁸⁷

81 Ibid.

82 Stutely, 1125 and 1140.

83 Stutely, 1140.

84 Blaikie, 1215.

85 Deveaux, 1115.

86 Ibid.

87 Smith, 1215.



x. Proposed new standing order “1.2. Remote participation by members”

The Speaker’s Report contains wording for a Standing Order change that would apply only in emergency situations. Proposed Standing Order 1.2 sets out that: in an emergency, after consultation with the House leaders of the recognized parties, the Speaker may modify the application of any provision of the Standing Orders or any special order or practice of the House to authorize the remote participation of members in the proceedings of the House and its committees.

During his appearance before the Committee, Mr. Bosc stated that “he failed to see how the Committee or even the House would agree to give the Speaker such broad powers,” while admitting that it was “possible” such agreement could be found.⁸⁸

The Committee notes that in correspondence received from the Speaker on 9 June 2020, following Mr. Bosc’s appearance, the Speaker revised the language of proposed Standing Order 1.2 to include, among other things, that such modifications to the application of any provision of the Standing Orders or any special order or practice of the House would only occur if all recognized parties agreed and that the duration of such modifications would only last for a predetermined period of time (see Appendix A).

C. Technological and practical considerations

i. Information technology security

On 2 June 2020, a portion of the Committee’s meeting was held in camera. The Committee posed questions to and received answers from Mr. Aubé and Scott Jones, Communications Security Establishment (CSEC). The Committee was interested in learning about, among other things, the close collaboration between House IT and CSEC, and the IT security measures used by the House to secure its data and users, such as the systems for monitoring and responding to IT incidents. Mr. Jones told the Committee that the House of Commons ranks up among the top organizations, in terms of IT security, that CSEC deal with, including the private sector.⁸⁹

Further, Mr. Aubé told the Committee that the House administration had been in close contact with CSEC about building a remote voting IT framework. He indicated that the

88 Bosc, 1155.

89 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 18, 2 June 2020, 1240, (Scott Jones, Canadian Centre for Cybersecurity).

House was confident that the proper security measures and controls, including layered defences, could be put in place to support members in voting remotely.⁹⁰ The House would be able to, among other things, monitor and quickly respond to threats or interruptions by outside actors. Mr. Aubé noted that the practice at the House was to use House-managed devices, allowing the House to control and encrypt the transfer of data between from end-to-end within House infrastructure. He also noted that Canadian Centre for Cyber Security could be approached to act as an auditor, should remote voting infrastructure be put in place and used.

Members of the Committee were interested in hearing information about the costs of implementing secure remote voting solution for use by legislatures. Pierre Roberge, of the company Arc4dia, told the Committee that, in general terms, electronic voting technology is fairly inexpensive to implement and very efficient.⁹¹ Mr. Aubé told the Committee that the House had begun building a remote voting IT framework by assigning this task to existing House employees. As such, the House had, to date, not incurred additional costs in developing such a remote voting framework, but did deploy existing human resources to this task.⁹² Mr. Rota noted that the House administration had not yet costed out the various options for voting by members, including voting remotely and voting in-person. He noted that the House administration was willing to cost out the options once the details of these had been defined.⁹³

Christian Leuprecht, Royal Military College of Canada, told the Committee when he appeared during the Committee's previous and related order of reference that, in his view, the greatest security risk was not software, but a member's personal device. He then asked the Committee to consider what kind of device are you using; what mechanisms are you using to connect, hard-wired or mobile; are you on an approved device; is the device hard-wired, on a secure network, with unique key identifiers.⁹⁴

90 Aubé, Meeting 27, 1225.

91 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1200 (Pierre Roberge, President, Arc4dia).

92 Aubé, Meeting 27, 1115.

93 Rota, Meeting 27, 1220.

94 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 12, 29 April 2020, 1735 (Christian Leuprecht, Royal Military College of Canada).



Similarly, Dr. Ali Ghorbani, University of New Brunswick, stated that, in his view, the human factor was considered the biggest threat to cybersafety.⁹⁵

Dr. Ghorbani added that:

The network integrated to the virtual chamber must be private, or if not, it must be secured. The goal is to avoid cloud and network vulnerabilities, such as security risks related to streaming video, such as stream grabbing and uploading; and security risks related to data routing, such as route manipulation and route hijacking, which requires that the integrated platform must offer the ability to choose through which region of the world their data would be routed.⁹⁶

Mr. Rota told the Committee of a noteworthy security measure implemented by House IT officials for hybrid sittings of the House. A 10-second delay has been put in place between live proceedings and their broadcast to the public. In the event a third party is able to penetrate the House's security system and attempt to broadcast inappropriate material, the delay would allow the IT security team to block that attempt, while proceedings would continue uninterrupted.⁹⁷

ii. Access to the internet by members

Mr. Rota told the Committee that House administration had resolved many of the technical issues around accessibility, connectivity, user-friendliness, security, sound and visual quality and real-time interpretation. He noted that the overall internet connectivity for members was very good, and was almost entirely resolved.⁹⁸ However, he noted that two members continued to have difficulties with their internet connectivity but that steps were currently being taken to resolve the issue and that he was confident these members would soon be able to connect and participate in sittings virtually.⁹⁹

Dr. Jourdan told the Committee that his top security concern about the House using remote internet voting was the accessibility and availability of fast reliable internet for all members. He stated that it would be difficult for a cyber-attack to change a member's

95 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1240, (Ali Ghorbani, Professor and Director of the Canadian Institute for Cybersecurity University of New Brunswick).

96 *Ibid.*, 1245.

97 Rota, Meeting 19, 1120.

98 Rota, Meeting 19, 1125.

99 Rota, Meeting 19, 1200.

vote, but it would be easier to prevent them from voting in the first place.¹⁰⁰ Similarly, Dr. Aleksander Essex, University of Western Ontario, told the Committee that bandwidth and dropping a concern, especially with threat actor who have the capability to cause the member's vote to drop at a specific time.¹⁰¹

iii. Simultaneous interpretation

In a written brief submitted to the committee on 12 June 2020, the Translation Bureau stated that poor sound quality during virtual meetings has led to an increase in the number of health incidents among interpreters.¹⁰² From March to May 2020, approximately 55 health incidents were reported.¹⁰³ As well, the Translation Bureau has taken recent actions to improve interpretation conditions in Parliament and throughout the government.¹⁰⁴

Since late April 2020, the Translation Bureau has:

- organized a series of meetings with different stakeholders to increase collaborative efforts in establishing optimal conditions for quality interpretation;
- assisted with the launch of a research project aimed at addressing the mental workload and fatigue that interpreters are experiencing during remote interpretation;
- shortened the duration of interpreters' virtual assignments to ensure that they have time to rest;
- increased the number of interpreters available during remote parliamentary meetings; and

100 Jourdan, 1320.

101 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1215 (Aleksander Essex, Associate Professor, University of Western Ontario).

102 Translation Bureau, Public Services and Procurement Canada, *Challenges of simultaneous interpretation in virtual proceedings of the House and committees*, 12 June 2020.

103 Ibid.

104 Ibid.



- received preliminary reports from the National Research Council of Canada concerning a project to develop an audio device for interpretation that would improve sound quality.¹⁰⁵

The Translation Bureau stated that although it is working to allow interpreters to work from home, most interpreters are still required to go to the parliamentary precinct to provide services on site.¹⁰⁶ To protect the health of its interpreters during the pandemic, the Translation Bureau has implemented strict sanitary measures.

According to a brief submitted to the Committee on 15 June 2020 by the International Association of Conference Interpreters, headsets provided to members by the House administration for virtual parliamentary meetings are not compliant with interpretation standards required to deliver the audio needed by interpreters to properly do their work.¹⁰⁷ As well, during House committee meetings, witnesses are using their own headsets and microphones, which sometimes do not provide proper audio for interpretation.¹⁰⁸

The International Association of Conference Interpreters observed that certain videoconferencing platforms, such as Zoom, do not adhere to International Organization for Standardization (ISO) interpretation standards “when it comes to audio required for quality interpretation” despite ongoing technical improvements to those platforms.¹⁰⁹ They continue:

There are several issues with Zoom that undermine both quality, interpretation and the integrity of official bilingualism in Canada. Unfortunately, the current technology limitations of virtual assemblies are a barrier to members of the House of enjoying this right and privilege. In a virtual world of Parliament, limitations of the Zoom platform are pushing the discourse in the most important institution of our democracy toward a single language, most often English.¹¹⁰

105 Ibid.

106 Ibid.

107 International Association of Conference Interpreters, *Submission to House of Commons Committee on Procedure and House Affairs – International Association of Conference Interpreters – Canada Region*, 15 June 2020.

108 Ibid.

109 Ibid.

110 Ibid.

Moreover, Zoom has a limited number of channels that allow for language interpretation in English and French, but not for the interpretation of Indigenous languages.¹¹¹

The Committee notes that it heard from Mr. Aubé, during its previous and related order of reference, that Zoom met all requirements established by House IT, was easy to use, supported all of the devices offered to members, and is as secure as the other solutions for holding meetings that are open to the public.¹¹²

In a brief submitted to the committee on 15 June 2020, the Canadian Association of Professional Employees (CAPE) stated that since 4 May 2020 several measures have been implemented to address the increasing number of injuries interpreters have been sustaining during virtual parliamentary meetings due to technical glitches or poor compliance with interpretation standards and conditions.¹¹³ For instance, on 12 May 2020, CAPE was informed by government officials that the Treasury Board Secretariat and Public Services Procurement are working alongside the National Research Council of Canada to find a solution to technical and health issues being experienced by interpreters.¹¹⁴ However, interpreters have continued to experience protracted ear pain, hypersensitivity to noise, nausea, headaches and tinnitus as a result of their work.¹¹⁵ In some of those cases, several interpreters have asked for time off from work or to be reassigned to non-interpretive tasks.¹¹⁶

iv. Decision-making (voting) technology

The Committee heard from a number of experts in the field of IT and electronic voting systems about the feasibility of the House establishing a secure and user-friendly system of remote electronic voting for use by members for House decisions.

With respect to costs, the Committee heard that the technology needed to set up a system for remote voting by members is, in general, “fairly inexpensive to

111 Ibid.

112 Aubé, Meeting 14, 1610.

113 Canadian Association of Professional Employees [CAPE], *SUMMARY: Addressing the challenges faced by interpreters during virtual parliamentary meetings and hearings / COVID-19 – Submitted to the House of Commons Standing Committee on Procedure and House Affairs (PROC) Committee’s Study of Parliamentary Duties and the COVID-19 Pandemic*, 15 June 2020.

114 Ibid.

115 Ibid.

116 Ibid.



implement.”¹¹⁷ Further, the Committee heard “there is strength in simplicity, especially when we're talking about cybersecurity and technology.”¹¹⁸

Dr. Nicole Goodman, Brock University, identified four possible types of electronic voting that could enable remote voting:

- Email voting, where members receive a ballot form electronically and submit their vote via email, as is being done in the EU Parliament. Dr. Goodman noted that, in her view, email voting was the riskiest and least secure approach.
- Web-based voting, where members access and cast ballots via a website, as is done through the U.K. House of Commons MemberHub system. Dr. Goodman noted that this approach required secure infrastructure, including secured devices and applications using a network connection.
- Application-based voting, where members download an application to access and cast ballots, as has been done by the Chamber of Deputies in Brazil. Application-based voting is broadly similar to web-based voting; however, Dr. Essex told the Committee that a web-based interface uses a browser (e.g. members sign in on a laptop or a computer) whereas application-based voting could be done using a smartphone. He noted that this difference had technical implications for network connection and security.¹¹⁹
- Video voting, where members vote on-screen by a show of hands or a voice vote, as Belgium is doing for its committee votes along with British Columbia’s Legislative Assembly and several Canadian municipalities. Dr. Goodman noted that, in her view, video voting presented the most usable solution for regular non-anonymous parliamentary votes. The benefits to video voting included that it posed the least risk, was the easiest to deploy, required less technology, and it interfaced more closely with the parliamentary tradition of standing in the House. However,

117 Roberge, 1200.

118 Essex, 1200.

119 Essex, 1215.

procedures would be required to minimize risks and to provide for a re-vote if required.¹²⁰

One potential risk of video voting is “deepfakes,” which can appear to make someone say something they did not. Mr. Roberge noted that these types of attacks are difficult to pull off, but could become a possibility as artificial intelligence improves.¹²¹ He suggested that video voting in conjunction with a second method of confirmation, such as by email or application, would help ensure voting accuracy.¹²² Mr. Roberge also underlined the importance of building in-person relationships between members as an important safeguard to help detect computer-created impersonations of members.¹²³

Dr. Essex noted one vulnerability of email voting on its own is its lack of end-to-end encryption.¹²⁴ He also highlighted the concern that, for voting by use of an application, it could be someone with the members’ credentials voting, instead of the member.¹²⁵ Similarly, Mr. Rota told the Committee that “one of the biggest things for security is making sure that the person who is there is the one voting and ensuring, if we do have a vote, that this takes place.”¹²⁶ At a later appearance before the Committee, Mr. Rota noted that a member who was found to have intentionally allowed another person to vote remotely in their stead would have committed a contempt of Parliament and that the consequences would be severe.¹²⁷

Ms. Harman, however, suggested that a member who was irresponsible enough to permit that to happen could be held accountable by the electorate.¹²⁸ The Committee notes that it did not hear of any issues related to non-members casting votes during the remote votes held in the U.K. House of Commons. The set-up of the remote system used in the U.K. House was described to the Committee in detail. It included having members use a single sign-on process to log in to their parliamentary accounts, and a password to

120 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1115 (Nicole Goodman, Assistant Professor, Brock University).

121 Roberge, 1140.

122 Roberge, 1225.

123 Roberge, 1200.

124 Essex, 1225.

125 Essex, 1150.

126 Rota, Meeting 19, 1120.

127 Rota, Meeting 27, 1230.

128 Harman, 1125.



be used on an assigned device, similar to online banking.¹²⁹ The platform employed was MemberHub, which was an existing platform for use by members.

Dr. Ghorbani highlighted several cybersecurity and privacy issues in relation to allowing members to participate remotely using a video conferencing platform.¹³⁰ These key issues include:

- low levels of awareness among members of ongoing cybersecurity risks, such as phishing scams and downloadable malware;
- members not having access to trusted computer software and hardware;
- existing vulnerabilities around the use of webcams, which could be accessed by unauthorized individuals;
- possible hardware shutdowns and slow connection during meetings;
- security risks associated with data routing, such as route manipulation and hijacking;
- unauthorized individuals joining remote meetings; and
- use of software that has not been verified and does not have end-to-end encryption for video conferencing.¹³¹

Dr. Jourdan told the Committee that it is possible for Parliament to hold hybrid sittings, with electronic remote voting, provided that there are the available resources and means to do so.¹³² He mentioned several key elements that could facilitate the holding of hybrid sittings. These elements include:

- Parliament's efficient security infrastructure and competent personnel;
- existing parliamentary security software, which has already been installed on remote devices used by members; and

129 Stutely, 1125 and 1130.

130 Ghorbani, 1240.

131 Ghorbani, 1240 and 1245.

132 Jourdan, 1245.

- the availability of secure videoconferencing platforms, which not only have been recently used by governments and other legislatures, but by members of the private sector for conducting private business and remote voting.¹³³

Dr. Jourdan also noted that when it comes to voting remotely, members need to be notified of an upcoming vote; they then must be able to vote, and have confidence about the results of the vote.¹³⁴ He also mentioned that despite the IT security community's concerns around the use of internet voting, parliamentary voting is not the same as using electronic voting during a federal general election. In the case of a possible parliamentary remote vote, which is a public ballot, voting results and information on the methods used to count the votes could be publicly disseminated.¹³⁵

Chris Vickery, UpGuard, expressed his concerns to the Committee about the use of web-based applications or solutions that involve video and phone displays for remote voting.¹³⁶ He stated that those applications and solutions could be programmed to provide inaccurate information.¹³⁷ Instead, he favoured providing each member with a separate physical piece of hardware, which is connected to the regular ethernet of any member's home, for secure remote voting. The physical piece of hardware would be used to securely transmit a vote from a member's location to the official location of the vote being received. Once the vote has been transmitted, the voting member would call a specific and secure line to confirm their vote.

Concerning cybersecurity and remote voting, Dr. Jourdan told the Committee that the software used for voting must come from a secure and accredited source; has been audited by independent teams; and has received appropriate certifications, which are kept up to date.¹³⁸

Mr. Vickery mentioned that videoconferencing platforms, such as Zoom, should not be used for conducting any discussions of a security nature as there might be the risk of having unauthorized individuals who are listening or intercepting those discussions.¹³⁹ In this

133 Ibid.

134 Ibid.

135 Ibid.

136 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 22, 11 June 2020, 1250 (Chris Vickery, Director of Cyber Risk Research, UpGuard).

137 Ibid.

138 Jourdan, 1250.

139 Vickery, 1255.



regard, Dr. Ghorbani mentioned that Zoom has had cases in the past of unauthorized individuals hijacking private meetings, but the company responsible for Zoom has been openly reviewing a proposal for developing secure end-to-end encryption.¹⁴⁰

D. Modifications to procedures for sittings and decision-making at national legislatures in response to COVID-19

i. The United Kingdom

(a) House of Commons

The Committee heard from Ms. Bradley that the response by the U.K. House of Commons to the outbreak of the COVID-19 pandemic, in terms of modifying their procedures and operations, took place in three successive phases.¹⁴¹ Ms. Bradley told the Committee that she considers the changes wrought by the pandemic to the operations of the House of Commons to be “the biggest changes to [the] proceedings in 700 years.”¹⁴²

1. **Ad hoc adaptations:** from the beginning of March 2020 to the Easter recess, agreements were made between the parties to enable physical distancing in the Chamber during sittings, in conjunction with other health and safety measures, which allowed for the continuation of in-person parliamentary business.
2. **Fully hybrid proceedings:** from 21 April 2020 to 20 May 2020, members could either participate in-person at sittings of the Chamber (up to 50 members at once) or virtually (up to 120 members at once). All members participating were treated equally. However, large classes of business were dropped from the agenda, and for technical reasons, a lot of the traditional ways we do business were no longer possible.¹⁴³ The measures put in place, while the pandemic in the U.K. was acute, allowed for the remote participation by some members along with fully virtual voting by all members were used for five sitting days and ten divisions.

140 Ghorbani, 1300.

141 Bradley, 1110.

142 Bradley, 1210.

143 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 13, 30 April 2020, 1110 (Matthew Hamlyn, U.K. House of Commons).

3. **Limited virtual participation and proxy voting:** the current phase of operations for the House was scheduled to last until 7 July 2020, and has been extended to 2 September 2020. Physical distancing measures remain in effect in the Chamber, which limits in-person participation to 50 members at a time. Members participating virtually can ask questions during questions, statements and urgent questions. The proxy voting system for physical deliberations has been extended for use by members who require “shielding” (e.g. members with pre-existing medical conditions), from its previous use only by members who were unable to vote in-person for reasons of having to care for an infant.¹⁴⁴

(b) House of Lords

In March 2020, the House of Lords decided to hold sittings using virtual proceedings; however, they did not sit until 21 April 2020.¹⁴⁵ As of that date, virtual sittings took place for two weeks, using the videoconference platform Microsoft Teams and later moving to Zoom.¹⁴⁶ While sitting virtually, the House of Lords did not have the power to decide questions.¹⁴⁷

On 8 June 2020, the House of Lords moved to a hybrid format predicated on the parity in participation of all members.¹⁴⁸ In order to respect physical distancing in a hybrid sitting, the physical capacity of the Chamber was limited to the in-person attendance by 30 members.¹⁴⁹ Relevant factors for decisions about sittings of the House of Lords during the pandemic period are its size (with 789 members) and its demographic profile, with 54% of members over 70 years of age.¹⁵⁰

144 On 28 January 2019, the U.K. House of Commons agreed to a temporary Standing Order that would allow for proxy voting in House divisions for the explicit reason of parental absence. Proxy voting allows one member to cast a ballot for another member. In response to the current situation, the government has proposed extending proxy voting. Please see Richard Kelly, *Proxy voting in division in the House*, House of Commons Library, Research Briefing CBP-8359, 3 June 2020.

145 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1115, (Simon Burton, Clerk Assistant, House of Lords of the United Kingdom of Great Britain and Northern Ireland).

146 Burton, 1115.

147 Ibid.

148 Burton, 1115 and 1120.

149 Burton, 1120.

150 Burton, 1115.



Procedurally, in the House of Lords, the following modifications have been made:¹⁵¹

- a resolution was proposed by the Procedure Committee and approved by the Lords to allow that Committee to issue guidance, which has the same force as guidance approved through a resolution of the Lords;
- a more structured format of debates was agreed to, imposing stricter time limits on debates and individual speeches; and
- it was agreed that parliamentary privilege applies equally to both physical and remote proceedings.

ii. Other jurisdictions

The COVID-19 pandemic has caused disruptions to legislative sittings around the world. Some legislatures decided to either suspend their plenary sessions or allow for the gathering of a reduced number of members.¹⁵² Gabriela Cuevas Barron, the President of the Inter-Parliamentary Union (IPU), told the Committee that the capacity for parliamentarians to adopt budgets, promote legislation, or even exercise their responsibility to holding the government accountable, is limited when legislatures are suspended or are reduced.¹⁵³

Mr. Power and Ms. Griffiths told the committee that the concept of legislatures delegating work to either a committee, bureau or a smaller set of members could lead to under-representation.¹⁵⁴

Mr. Power highlighted to the committee five challenges legislatures face when transitioning into remote or hybrid sittings. These are

- a legislature's ability to bring new technology into its plenary sessions and chamber, which might not be suited to its use;
- the political implications of using new technology to hold remote or hybrid sittings, which could change the dynamics of meetings between

151 Ibid.

152 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 21, 9 June 2020, 1245 (Gabriela Cuevas Barron, President of the Inter-Parliamentary Union).

153 Ibid.

154 Griffiths, 1315; and Power, 1335.

members and not permit legislatures to complete as much business as they would during physical sittings;

- the ability of the public to have access to parliamentary proceedings;
- whether legislatures have the capacity to provide enough resources to their members for them and their staff to be able to work remotely; and
- the lasting impact of moving to virtual proceedings.¹⁵⁵

Mr. Power mentioned that several legislatures around the world have inserted “sunset” clauses to procedural rules they have adopted to hold remote or hybrid sittings, while other legislatures have seen the use of emergency powers during the pandemic.¹⁵⁶

Ms. Cuevas Barron mentioned to the Committee that 40% of national and regional legislatures have reported to the IPU that they are using a remote model for their committee meetings, and 10% of legislatures have reported using digital tools to hold hybrid or remote plenary sittings.¹⁵⁷ She also noted that with the current pandemic there has also been “a wave of unexpected innovation” within several legislatures.¹⁵⁸ Legislatures meeting remotely or holding hybrid sittings have been using videoconferencing platforms – such as Zoom and Microsoft Teams, among others – to conduct plenary sessions, committee meetings and internal meetings.¹⁵⁹

E. Modifications to procedures for sittings and decision-making at Canadian provincial and territorial legislatures in response to COVID-19

The Committee remains keenly interested in the responses by provincial and territorial legislatures to the COVID-19 pandemic and considers it important to follow any steps these have taken to continue to sit and meet during the pandemic. However, the Committee remains mindful of that a wide variety of significant differences exist between the individual provinces and territories and their legislatures, as compared to Canada’s single federal Parliament located in Ottawa. Such differences include the

155 Power, 1235.

156 Ibid.

157 Cuevas Barron, 1245.

158 Ibid.

159 Cuevas Barron, 1250.



health data related to COVID-19 in each province and territory, the relative number of members who sit in each legislature versus Parliament's 338 members, the travel distance for members to reach their respective legislative bodies, the advice being given by that jurisdiction's health authority, etc.

i. British Columbia

The Legislative Assembly of British Columbia resumed sitting on 22 June 2020 using a hybrid model, according to an all-party agreement. The legislature is scheduled to sit until 31 August 2020.¹⁶⁰

Mr. Farnworth and Ms. Polak told the Committee that the goal of the hybrid session was to ensure that proceedings involve parity of treatment between members participating remotely and members participating in person in the legislative chamber.¹⁶¹

Mr. Farnworth said that key procedural elements, such as seeking recognition from the Chair to speak, moving a motion and introducing a bill, making a member's statement, participating in question period or tabling a document will all be elements of a typical hybrid sitting day.¹⁶² The hybrid House will sit Monday, Tuesday and Wednesday, with participation by members in the chamber and online via Zoom. On Thursdays and Fridays, a committee of supply will meet by videoconference to complete the estimates supply process. Committees will continue to operate completely virtually.¹⁶³

For a member participating remotely to be deemed present both audio and video must be enabled. To be recognized for a point of order, members notify the Clerk's desk using the chat function on Zoom.¹⁶⁴

Votes will be deferred to a set time of the day so that all members know when the votes are taking place.¹⁶⁵ Members may vote in-person or over Zoom.

Members can participate in-person in the chamber, or virtually in their office in the precinct or in their constituencies. Twenty-four of the Legislature's 87 members will be

160 Legislative Assembly of British Columbia, [Parliamentary Calendar](#).

161 Farnworth, 1250; and Polak, 1255.

162 Farnworth, 1250.

163 Ibid.

164 Polak, 1345.

165 Farnworth, 1320.

permitted on the floor.¹⁶⁶ Ms. Polak added that members have the privilege to attend in-person if they wish.¹⁶⁷

In preparation for the hybrid sittings, simulations have been underway to ensure that members participating virtually are “on equal footing.” Ms. Polak noted that question period and roll call vote simulations were successful.¹⁶⁸ She added that roll call votes are time consuming, but it is “a small price to pay for making sure that everyone has a chance to participate.”¹⁶⁹ Ms. Polak noted that “[u]ntil I had participated in the simulations, I really didn't understand some of the very small things that could have big consequences for how it operates.”¹⁷⁰

Mr. Farnworth noted that they are considering introducing a sessional order to govern the hybrid proceedings. He added that the order will govern the proceedings for the summer session only, and the legislature will return to its regular Standing Orders when public health officials announce it is safe to do so.¹⁷¹

At numerous times during their appearance, both Mr. Farnworth and Ms. Polak noted the high degree of cross-party collaboration that had occurred in the Legislature when it came to the approach to the management of the House¹⁷²

ii. Alberta

The Legislative Assembly of Alberta sat five times in April, three times in early May and was recalled on 27 May 2020. The Assembly is currently holding in-person chamber sittings.¹⁷³ The Assembly will continue to sit until the 23 July 2020.¹⁷⁴ Members are

166 Farnworth, 1305.

167 Polak, 1305.

168 Polak, 1305 and 1315.

169 Polak, 1315.

170 Polak, 1350.

171 Farnworth, 1330.

172 See for example Polak, 1325.

173 Legislative Assembly of Alberta, [Order Papers](#).

174 Legislative Assembly of Alberta, [Revised 2020 Sessional Calendar](#).



observing physical distancing protocols, sitting at least a seat apart from each other, and rotating in and out of the chamber.¹⁷⁵

iii. Saskatchewan

The Legislative Assembly of Saskatchewan resumed sitting in-person on 15 June 2020. To ensure proper physical distancing, only 25 members will be permitted in the chamber at once (17 government members, seven opposition members and the Speaker).¹⁷⁶ In-person voting was conducted by the whips collecting, on a tally sheet, the signatures of MLAs present within the precinct. Proxy voting is made available for “any member physically unable to vote in a recorded division...due to the COVID-19 public health emergency and the related measures that are in place.”¹⁷⁷ Under emergency legislation, quorum at the Assembly was lowered from 15 members to 10.

The Board of Internal Economy met over conference call on 7 May 2020. However, neither chamber or committee proceedings are taking place virtually.

iv. Manitoba

On 19 March 2020, the Legislative Assembly of Manitoba suspended its sittings. On 15 April 2020, the Legislature agreed to resume a semi-regular sitting schedule with 20 members present.¹⁷⁸ Starting 6 May 2020, the Assembly began gradually resuming regular operation by sitting every Wednesday.¹⁷⁹ On 27 May 2020, the Assembly adjourned until the call of the Speaker.

The Legislative Assembly of Manitoba is not holding chamber or committee proceedings virtually.

175 Michelle Bellefontaine, [Work on Alberta Legislature pandemic plan started in early January](#), CBC News, 24 May 2020.

176 Legislative Assembly of Saskatchewan, [Fifteenth Report of the Twenty-Eighth Legislature](#), Standing Committee on House Services, 15 June 2020, p. 23.

177 *Ibid.*, p. 13.

178 Legislative Assembly of Manitoba, [Votes and Proceedings No. 27](#), 15 April 2020.

179 Legislative Assembly of Manitoba, [Votes and Proceedings—Second Session- Forty-Second Legislature](#).

v. Ontario

On 12 May 2020, the Legislature agreed to resume a semi-regular sitting schedule with a reduced number of members present.¹⁸⁰ More recently, the Legislature sat in June 2020. On 16 June 2020, the Legislature adopted a motion to sit on 17 June 2020 until midnight; 23 June 2020; 24 June 2020; 6 to 8 July 2020; 13 to 15 July 2020; and 20 July to 22 July 2020, for the purpose of considering government business.¹⁸¹ The Committee notes that the Legislature is employing a voting system similar to that used at Westminster during normal circumstances (i.e., voting in lobbies, while maintaining physical distancing).

The Legislative Assembly of Ontario is not holding virtual chamber sittings but is holding some virtual committee meetings.

On 27 May 2020, the Standing Committee on Finance and Economic Affairs announced that it intends to hold public hearings on the tourism sector over Zoom from 4 June to 22 June 2020.¹⁸² No other committees are currently scheduled to meet.

vi. Quebec

The National Assembly of Quebec resumed proceedings for a one-day sitting on 13 May 2020 with 31 members present. That day the Assembly adopted a motion about the use of a form of block voting that expired on 12 June 2020. The motion stated, among other things, that all votes must be taken according to a recorded voting procedure under which the vote of the leader or deputy leader of a parliamentary group, or, where appropriate, of a member previously identified by the latter to the Secretariat, will be valid for all the members belonging to his or her group.¹⁸³ This same motion also prescribed the work of the Assembly, including debate on bills, and its committees during the period from 13 May to 12 June 2020.

On 26 May 2020, the Assembly resumed sitting three days a week,¹⁸⁴ holding in-person chamber proceedings with reduced numbers of members. The Assembly also held

180 Legislative Assembly of Ontario, *House documents from the 42nd Parliament, 1st Session*.

181 Legislative Assembly of Ontario, *Hansard*, 16 June 2020.

182 Legislative Assembly of Ontario, Standing Committee on Finance and Economic Affairs, *Study of the recommendations relating to the Economic and Fiscal Update Act, 2020 and the impacts of the COVID-19 crisis on certain sectors of the economy, 27 May 2020*.

183 Assemblée nationale du Québec, *Journal des débats de l'Assemblée nationale*, 13 May 2020.

184 Assemblée National du Québec, *Detailed Calendar*.



virtual committee meetings.¹⁸⁵ As of 12 June 2020, the Assembly adjourned for the summer. Some committees are continuing to meet.

vii. New Brunswick

The Legislative Assembly of New Brunswick resumed sitting on 26 May 2020.¹⁸⁶ Two days later, the Assembly adjourned after two members and the Speaker returned to their respective ridings to assist with COVID-19 outbreak in their communities.¹⁸⁷ The Assembly resumed sitting on 9 June 2020.

The Legislative Assembly is not holding virtual chamber or committee meetings. Instead, seating in the Chamber has been reconfigured to increase distance between members. Some members will sit in the media and visitor galleries during sittings so that all can participate.¹⁸⁸

The leaders of the opposition parties have formed an informal, ad hoc committee that has been meeting with the Premier and ministers on a regular basis to oversee the government's response to the pandemic. The Committee meets regularly using conference calls.¹⁸⁹

viii. Nova Scotia

The Nova Scotia House of Assembly stands adjourned and has not publicly discussed any plans to hold virtual chamber or committee proceedings. The Standing Committee on Human Resources met via teleconference on 26 May 2020.¹⁹⁰

185 Assemblée National du Québec, *Journal des débats*.

186 Legislative Assembly of New Brunswick, *Calendar*.

187 Alexander Quon and Silas Brown, [New Brunswick legislature adjourns as at least 3 MLAs return home after new coronavirus cases](#), *Global News*, 28 May 2020.

188 Jacques Poitras, [Double-decker legislature part of new House rules for MLAs](#), *CBC News*, 19 May 2020.

189 See: Jacques Poitras, [Opposing during COVID: How New Brunswick's 3 opposition parties are holding government to account](#), *CBC News*, 25 March 2020; Silas Brown, [N.B. Liberals clash with government over lack of stimulus spending](#), *Global News*, 31 May 2020.

190 Nova Scotia Legislature, [Hansard—Nova Scotia House of Assembly Committee on Human Resources](#), 26 May 2020.

ix. Prince Edward Island

The Legislative Assembly resumed sitting on 26 May 2020.¹⁹¹ Seating in the Chamber has been reconfigured so that all members can attend—with some sitting in the public and media galleries to permit physical distancing.¹⁹² The Standing Committee on Rules, Regulations, Private Bills and Privileges was given an order of reference to research how the Assembly could hold virtual proceedings, with a reporting deadline of November.

The Legislative Assembly of Prince Edward Island is not holding chamber or committee meetings virtually.

x. Newfoundland and Labrador

On 5 May 2020, the House of Assembly passed a resolution to establish a Select Committee of Rules and Procedures Governing Virtual Proceedings of the House Assembly (“Select Committee”).¹⁹³ The Committee studied how virtual and/or hybrid proceedings may be held. The resolution calls for the report to be tabled with the Clerk of the House of Assembly as soon as possible, but no later than 1 July 2020. The Committee held two in camera meetings a week virtually.¹⁹⁴

The Hon. Siobhan Coady, Minister of Natural Resources and Government House Leader, told the Committee that the key principles leading the Select Committee’s work are that all members enjoy the parliamentary privilege necessary to do their work and represent their constituents and that any model of a hybrid parliament must take into account individual privileges and the collective privileges of the House.¹⁹⁵

Ms. Coady also noted that this hybrid system is being established “in an abundance of caution,” and that this model could be used in the fall, if necessary, or during any future public health emergencies.¹⁹⁶

191 Legislative Assembly of Prince Edward Island, *Debates*.

192 Shane Ross, *MLAs return to modified legislature May 26*, *CBC News*, 17 May 2020.

193 Newfoundland & Labrador, *News Release-- House of Assembly Establishes Select Committee Respecting Virtual Proceedings During the COVID-19 Pandemic*, 5 May 2020.

194 House of Commons, Standing Committee on Procedure and House Affairs, *Evidence*, 1st Session, 43rd Parliament, Meeting 20, 4 June 2020, 1335 (Hon. Siobhan Coady, Minister of Natural Resources and Government House Leader, House of Assembly of Newfoundland and Labrador).

195 Coady, 1235.

196 Coady, 1340.



Ms. Coady said that House of Assembly has integrated video conferencing with their broadcast system and conducted successful rehearsals.¹⁹⁷ She added that the Select Committee is discussing options for voting but has not yet reached a final decision.¹⁹⁸ Ms. Coady also said that there are sunset clauses on any changes they make to the Standing Orders.¹⁹⁹

The House of Assembly resumed on 9 June 2020. Seating in the Chamber would be reconfigured to permit all members to convene to accommodate physical distancing. Some members sit in the public gallery and Speaker's gallery.²⁰⁰ Other health measures include the installation of plexiglass (Ms. Coady did not note where this would be installed) and that members will be required to wear masks when moving about the chamber and the precinct, but not when speaking.²⁰¹ When speaking, members will be allowed to speak while seated, to help prevent oral droplets.

On 30 June 2020, the Special Committee presented its Final Report to the House.²⁰² Among the recommendations contained in the report are the following:

- the House's default position is to hold in-person sittings;
- the Speaker may organize hybrid sittings if it would not be prudent for all members to be present, after consulting the Chief Medical Officer of Health and the House leaders;
- at hybrid sittings, quorum would be based on members present in the Chamber;
- at hybrid sittings, the Speaker may set a limit on physical attendance in the Chamber;
- at hybrid sittings, recorded votes would be taken by roll call; and

197 Coady, 1240.

198 Ibid.

199 Coady, 1330.

200 Coady, 1240.

201 Ibid.

202 Newfoundland and Labrador House of Assembly, *Final Report*, Select Committee of Rules and Procedures Governing Virtual Proceedings of the House of Assembly, 30 June 2020.

- This procedural framework expires December 3.

xi. Yukon

The Legislative Assembly currently stands adjourned until 1 October 2020. On 21 April 2020, the Speaker of the Legislative Assembly issued a press release indicating that committee meetings could take place either virtually or in person with physical distancing provisions.²⁰³ In-person committee meetings can also be accommodated in the Legislative Chamber. As such, several virtual committee meetings were held in May 2020.²⁰⁴

xii. Northwest Territories

The Legislative Assembly of the Northwest Territories resumed sitting on 26 May 2020.²⁰⁵ Seating in the chamber has been reconfigured to permit physical distancing.²⁰⁶

xiii. Nunavut

In a press release from 1 May 2020, the Speaker of the Legislative Assembly announced that the spring 2020 sitting of the 2nd Session of the 5th Legislative Assembly was cancelled.²⁰⁷

DISCUSSION

On 26 May 2020, the Committee received an order of reference from the House of Commons. The House instructed the Committee to review and make recommendations on how to modify the Standing Orders for the duration of the COVID-19 pandemic, including how to enact remote voting. This order of reference was not adopted unanimously.²⁰⁸

203 Yukon Legislative Assembly, [Proceedings during COVID-19 Pandemic](#), 21 April 2020.

204 For example, see: Yukon Legislative Assembly, Standing Committee on Public Accounts, [Public Accounts Committee Update](#), 7 May 2020.

205 Legislative Assembly of the Northwest Territories, [Hansard Archive](#).

206 CBC News, [N.W.T. Legislative Assembly to resume sitting May 26](#), 15 May 2020.

207 Legislative Assembly of Nunavut, [Cancellation of the Spring Sitting of the Legislative Assembly](#), 1 May 2020.

208 A recorded division was held on the motion entitled *Government Business No. 7* on 26 May 2020. The result was 28 yeas and 23 nays. See House of Commons, *Journals*, 26 May 2020, p. 462.



The order of reference sets out that any recommendations made by the Committee ought to consider forming part of an incremental approach to begin to hold hybrid sittings of the House, as outlined in the Speaker's Report.

The Discussion section of this report, as found below, provides a list of potential Standing Order modifications presented to the Committee as options. These potential Standing Order modifications derive either from the Speaker's Report or from testimony given to the Committee during its hearings on this matter.

As context to the Committee's recommendations, it wishes to call to the attention of members of the House of Commons:

- that COVID-19 has led to exceptional circumstances for Canada and for all Canadians;
- that while COVID-19 cases, hospitalizations and deaths are trending downward, COVID-19 remains a serious public health threat that requires constant vigilance by all Canadians;
- that all necessary steps be taken to ensure the continuation of Parliament should there be a second and/or more waves of COVID-19, or a second wave of COVID-19/influenza.
- that the Committee recognize that the hybrid proceedings were implemented, and were secure, tested, accessible, provided simultaneous English and French interpretation, respected social distancing, allowed all members of the House to take part and represent their constituents, and allowed for full participation by the media.

A. Modifications to the Chamber and the creation of new technical or support roles to enable hybrid sittings

i. Options for the Committee's consideration

- Introduce two large screens in the Chamber to display members who are participating remotely. These would be installed on either side of the Speaker's Chair, at the south end of the Chamber. This proposal is found in the Speaker's Report.

- Install simultaneous interpretation booths in the antechamber that are equipped with monitors to enable interpreters to see participants when speaking. This proposal is found in the Speaker's Report.
- Ensure that videoconferencing solutions used for virtual parliamentary meetings adhere to ISO standards on remote interpretation.²⁰⁹ This proposal was supported by the CAPE and the International Association of Conference Interpreters.
- Provide audio headsets with microphones that are compliant with minimum ISO interpretation standards to all members and ensure that headsets used by non-parliamentarians also adhere to those standards.²¹⁰ This proposal was made by the International Association of Conference Interpreters.
- Members and non-parliamentarians participating remotely during a parliamentary session should be required to use a wired internet connection, which would reduce audio and video technical glitches associated with a wireless connection to the internet.²¹¹ This proposal was supported by the International Association of Conference Interpreters and the Translation Bureau.
- Ensure that the House implements standards to help safeguard simultaneous interpreters against injuries and fatigue.²¹² This proposal was supported by the International Association of Conference Interpreters.

ii. The Committee's view

The Committee recommends:

209 Ibid.

210 International Association of Conference Interpreters, *Submission to House of Commons Committee on Procedure and House Affairs – International Association of Conference Interpreters – Canada Region*, 15 June 2020.

211 Ibid.; and Translation Bureau, Public Services and Procurement Canada, *Challenges of simultaneous interpretation in virtual proceedings of the House and committees*, 12 June 2020.

212 Ibid.



That the House of Commons administration ensure that all members have access to the telecommunications infrastructure, including a consistent standard for hardware, software, and internet connectivity, necessary to attend virtual proceedings in their constituencies paid for through the central budget; and until that time, that members unable to connect to virtual proceedings in times they are necessary due to insufficient telecommunications infrastructure in their riding be compensated for travel to and provided the appropriate equipment and venue to participate in the virtual proceedings from a nearby location within or outside of their riding that has the necessary telecommunications infrastructure.

That the House of Commons administration adopt standards to help safeguard simultaneous interpreters against injuries and fatigue, including

- **ensuring compressor-limiters are installed to prevent acoustic shock;**
- **undergoing a sound check with a coordinator and technician before each meeting begins, where possible;**
- **increasing the number of interpreters working into French, per assignment, because most of the work is into French;**
- **planning for sufficient time off between assignments to recover from excessive fatigue; and**
- **ensuring the previous two measures to sustain the interpreter pool are applied equally to Translation Bureau staff and freelancers.**

That the House of Commons administration develop a cyber-incident response plan, as an integral part of its arrangements for hybrid sittings and virtual committee meetings, and that a confidential report be filed with the Committee and an in-camera briefing be held before in early September, before the House resumes sitting on 21 September 2020.

That, if possible, the House of Commons administration ensure that the Speaker and table officers are equipped with the necessary tools to be able to see all members participating in a plenary sitting simultaneously, whether they are participating virtually or physically, for proper administration of Standing Order 1.2(2)(f)(i).

That the Translation Bureau report disaggregated data monthly to the Speaker and whips of the recognized parties on the health and wellbeing of the interpreters and the number and type of workplace injuries they are experiencing during the pandemic.

B. Creation of sessional changes to Standing Orders (i.e. formal Standing Order changes of a fixed duration)

i. Options for the Committee's consideration

- Modify the Standing Orders temporarily (i.e. for a pre-determined duration) to provide for hybrid sittings that closely replicate the procedures and practices of the House of Commons during normal circumstances. This proposal was made by many witnesses.

ii. The Committee's view

The Committee recommends:

That the House of Commons adopt a gradual and progressive approach to setting up a virtual or hybrid parliament so that the House may continue its parliamentary proceedings in the event of a pandemic or exceptional circumstances.

That the House of Commons recognize that there are members of Parliament and loved ones of members who are susceptible to COVID-19, that presence in the House of Commons and travel between Ottawa and their respective ridings poses an increased health risk, that provinces and territories may implement travel restrictions at any time due to the pandemic, and in light of this recognition and the rights of all members to participate in the legislative process, adopt means for members to participate in the work of the House of Commons both physically and virtually for a predetermined length of time agreed upon by the House leaders of the recognized parties.

That, upon the implementation of a hybrid or virtual sittings of parliament, the House of Commons return to all its regular business including following the sitting calendar pursuant to Standing Order 28(2), except where altered by the Speaker under Standing Order 1.2(1)(a).

That the virtual or hybrid parliament replicate the rules and customs of the House as closely as possible, in particular the usual order of business of the House and the parliamentary calendar for the current session, in order to fully ensure the democratic role of Parliament (deliberation, accountability and decision-making), as well as the parliamentary rights and privileges of members.



C. Collaborative approach for setting House business

The Committee recommends:

That the House recommend that the party House leaders and whips continue to meet on a regular basis, whether in person or virtually, for the duration of the pandemic.

D. Inclusive testing of procedural and practical changes

i. Options for the Committee's consideration

- Hold extensive and inclusive testing of procedural and practical changes for hybrid sittings under modified procedures. This evidence was given by Mr. Farnworth, Ms. Polak, Ms. Bradley, Mr. Stutely and Ms. Harman.

ii. The Committee's view

The Committee recommends:

That the House of Commons administration conduct a series of tests, including participation of House leaders and whips from all recognized parties, independent members, members of the Committee, and members identified by the House of Commons administration as having difficulty accessing digital infrastructure, of voting by numerous methods, including options for recorded and non-recorded voting methods that correspond with different public health scenarios, including options for video voting and virtual voting systems, and in-person voting options, for use during the current pandemic as soon as possible, and before 21 September 2020. And that these tests be reported on to the House leaders and whips of each recognized party, the Committee, and independent members, and that House of Commons administration be available for discussion and feedback following each test.

That a secure virtual voting system be developed, thoroughly tested, and demonstrations and training be provided to members before a first virtual vote.

That a secure remote voting solution be designed using an iterative approach including multiple rounds of testing, demonstrations, and adaptations.

- Ensure multiple notifications and reminders are set to inform members when a vote is happening;
- Multi-factor authentication is built into the system;

- **Users will have double confirmation and verification of voting;**
- **Clearly include the wording of the legislation or motion;**
- **Set a time for votes in advance, following consultation with all House leaders and whips; and**
- **Allow for votes to be applied upon agreement from all recognized party whips. Any member who dissents with applying a vote can give notice to the Speaker prior to that vote.**

That members be trained and oriented on using any new voting system.

- **Make it clear that members have a responsibility to verify their identity and to place the vote themselves, and failure to do so has consequences, including contempt of Parliament;**
- **Orient them to any system by introducing such a system by using a demonstration and then having several practice votes; and**
- **Assist members who have trouble accessing the system by helping them login and verify their identity.**

That, once a solution or solutions for a substitute voting system have been created and approved for use by the House leaders and whips of recognized parties, all members of the House of Commons be invited to participate in a mock sitting, including votes on an individual question, successive questions, and questions dependent on another motion or proceeding and that these questions be non-political and not require government action of any kind, prior to the first official use.

That the House of Commons administration actively consult the parties' House leaders and whips in developing its platforms, protocols and practices to be used at virtual or hybrid sittings, as well as engaging and integrating the staff of House leaders and whips in the testing process.

That, if following tests of the different means of substitute voting systems, the House leaders and staff of all the recognized parties are satisfied with the performance of one or more of these solutions, in light of the public health data and advice, they may indicate their agreement to the Speaker and the solution or solutions indicated will then be considered ready for adoption and use by the House of Commons.



That, following the adoption and use of any substitute voting system, there be a continuous feedback mechanism on the system from the members to the House of Commons administration and that the administration be empowered to make improvements to the system based on this feedback, provided that any changes do not contradict any decision that has been taken by the House.

E. Quorum

i. Options for the Committee's consideration

- Amend Standing Order 29(1) to clarify that members participating virtually count for the purposes of establishing quorum. This proposal is found in the Speaker's Report.

ii. The Committee's view

The Committee recommends:

That the House of Commons amend Standing Order 29(1) to specify that members who participate virtually in sittings of the House count for the purposes of quorum and voting, when the House sits during hybrid or virtual proceedings under Standing Order 1.2.

F. Tabling of documents, reports and returns

i. Options for the Committee's consideration

- Create an email-based electronic tabling system for tabling papers (i.e. documents, reports and returns) with both table officers and the Clerk of the House. This proposal is found in the Speaker's Report.

ii. The Committee's view

The Committee recommends:

That, during any virtual or hybrid sittings during the current pandemic, any return, report or other paper to be presented to or laid before the House pursuant to any statute, Standing Order or other order of the House, any petition certified by the Clerk of Petitions and presented pursuant to Standing Order 36, and any committee report presented to the House, may be deposited or presented electronically when the House is sitting or, when it is adjourned, under the provisions of Standing Order 32(1).

That an email address or web-based application be established to allow members of the House of Commons to submit items of private members' business.

That documents electronically or otherwise tabled in the House during the current pandemic remain equally as accessible to members of the House, their staff, media representatives, and members of the public as such documents would have been prior to the pandemic.

G. Members' remote participation in hybrid proceedings

i. Options for the Committee's consideration

- For business where a predetermined speaking order of members can be shared by parties with the Chair, the presiding officer will rely on rotation lists submitted by parties. Members seeking to catch the eye of the Speaker can use features built into the videoconferencing system (e.g. the ability to "raise your hand" in Zoom). This proposal is found in the Speaker's Report.

ii. The Committee's view

The Committee recommends:

That any repeated connectivity issues that members of the House have are resolved to ensure they can participate fully in virtual or hybrid proceedings.

That, during the current pandemic, the Speaker may, with the agreement of the House leaders of the recognized parties, modify the application of any provision of the Standing Orders, any Special Order or usual practice of the House to authorize the remote participation of members during Statements by Members, Oral Questions, the daily routine of business, Adjournment Proceedings, and debates under Standing Orders 52 and 53.1.

That the House of Commons administration continue to review and monitor public health advice to ensure any changing or new physical distancing guidances are integrated into the existing procedures for the safest use of the Chamber and West Block, including the possibility of routine testing; and that the Administration engage with Ottawa Public Health and Centre intégré de santé et de services sociaux de l'Outaouais and other appropriate public health officials as may be necessary to give effect to the goal of safe operation of the parliamentary precinct.



That members participating virtually in any proceedings of the House of Commons enjoy and exercise the same parliamentary privileges that apply to members physically present.

That the House of Commons administration adapt any videoconferencing platform to include the option to identify members participating virtually by party for the use of lobby staff, if possible.

That the House of Commons increase its capacity for the virtual meeting of committees to the point that all committees can hold the same number of meetings as during a normal sitting period in addition to virtual or hybrid sittings of the House of Commons.

That the House of Commons increase its capacity for all caucuses to hold virtual caucus meetings on Wednesdays during sitting weeks.

That the House of Commons administration, in cooperation with the platform supporting virtual presence of members, develop the option for the simultaneous interpretation of a third language to support the use of Canada's Indigenous languages in virtual proceedings in Parliament.

H. Order and decorum

i. Options for the Committee's consideration

- Preserve decorum and order by modifying existing powers to allow the Chair to mute the microphones of virtual participants or exclude members from the sitting. This proposal is found in the Speaker's Report.
- Guidelines could also be established for background visuals behind members participating virtually to preserve the decorum and dignity of the House. This proposal is found in the Speaker's Report.

ii. The Committee's view

The Committee's view is that [...]. It is therefore in favour of or against...

That the participation of members of the House in virtual or hybrid proceedings respect the following guidelines:

- addressing remarks through the Chair;

- **insisting the proceedings be conducted in a respectful manner;**
- **maintaining the rule that members wishing to speak wear business attire;**
- **prohibiting the use of displays, props and exhibits;**
- **adequate lighting so that the member's features can be recognized;**
- **camera should be in a fixed position; and**
- **video must be turned on for the member to be recognized by the Speaker. More generally, technical staff recommend that video be kept on while members attend a virtual sitting; however, members can exercise their discretion about turning the video on or off when they do not have the floor.**

That the House of Commons adopt, during the current pandemic, changes to customs and tradition by giving the Chair the power to mute the microphone of virtual participants or to exclude members, pursuant to Standing Order 11, from the sitting as a disciplinary measure.

I. Decision-making (voting)

i. Options for the Committee's consideration

- Establish a system that provides secure notifications to members whenever a recorded division is to be held, inviting them to vote using a House-managed device.²¹³ This proposal was made by Mr. Rota.
- Employ a roll-call voting system, whereby each member's face appears for verification purposes, and the member could then speak or push a button, "yea" or "nay."²¹⁴ Members could then check to ensure that their

213 Rota, Meeting 19, 1115.

214 Rota, Meeting 19, 1120.



vote had been properly recorded.²¹⁵ This system would have to be tested for feasibility and security.²¹⁶ This proposal was made by Mr. Rota.

- Employ a virtual voting system, whereby members can read the text of the motion in an application. Members would not be required to hear the Speaker reading the question, and they could vote at any point during the 15 or 30-minute period while the bells are ringing.²¹⁷ This proposal was made by Mr. Rota. Further, the Speaker’s Report notes that an option could be provided to allow members to correct a vote cast in error.
- When a member seeks unanimous consent, the Chair could ascertain opposition to the request by having members who dissent and are participating virtually in the sitting unmute and say no. The Chair would proceed slowly and cautiously to ensure that the will of all members participating in the sitting is understood. This proposal is found in the Speaker’s Report.
- To object to a particular question and request a recorded division be taken or to oppose a motion, create a rule or practice that members participating in the sitting virtually can use the “raise hand” feature on the videoconferencing platform. This proposal is found in the Speaker’s Report. The relevant Standing Orders for this proposal are:
 - 45(1) when five members demand a recorded division;
 - 53(4) when ten members object to a motion of an urgent nature moved without notice by a Minister;
 - 56.2(2) when ten members object to a motion moved by a Minister concerning committee travel;
 - 26(2) when 15 members object to a motion moved by a member to continue or extend a sitting;
 - 98(3)(a) when 20 members must support a motion to extend the sitting hours during the consideration of a private member’s bill; and

215 Rota, Meeting 19, 1150.

216 Rota, Meeting 19, 1210.

217 Rota, Meeting 19, 1115.

- 56.1(3) when 25 members object to a routine motion moved by a Minister during Routine Proceedings, following the denial of unanimous consent.
- Employ block voting, whereby party whips indicate how their members are voting on any particular division, with provision made members who may dissent from their party to cast their own vote.²¹⁸ This proposal was made by Mr. Blaikie.
- Employ proxy voting, whereby a member delegates his or her voting power to another member to vote in his or her absence.²¹⁹ This proposal was made by Mr. Deveaux.
- Employ a blend of voting options for use by members to promote maximum participation, including procedures for voting in-person, remotely and by proxy.²²⁰ This proposal was made by Mr. Bosc.
- Ensure remote voting take place in ways and at times that are known in advance and are predictable.²²¹ This proposal was made by Mr. Blaikie.
- Employ a remote voting system, whereby members can vote using devices that are controlled and managed by Parliament's technical staff.²²² The proposed voting system could be integrated into an accredited video conferencing system or a secure communication system.²²³ The secure communication system could be used to call members to a vote, who will be then required to complete an biometrics authentication process at the time of the vote.²²⁴ Several acknowledgments of receipt of the vote will then be released immediately.²²⁵ This proposal was made by Dr. Jourdan.

218 Blaikie, 1125.

219 Deveaux, 1120.

220 Bosc, 1205.

221 Blaikie, 1105.

222 Jourdan, 1245.

223 Ibid.

224 Jourdan, 1250.

225 Ibid.



- Provide all members with a separate physical piece of hardware, which is connected to the regular ethernet of any member's home, for secure remote voting.²²⁶ The physical piece of hardware would be used to securely transmit a vote from a member's location to the official location of the vote being received.²²⁷ Once the vote has been transmitted, the voting member would call a specific and secure line to confirm their vote.²²⁸ This proposal was made by Mr. Vickery.
- Members, parliamentary staff and other non-information technology personnel should be involved in the development process of a remote voting solution, and there would be the need to provide regular training to members of any software updates or cybersecurity risks.²²⁹ This proposal was supported by Dr. Ghorbani and Dr. Jourdan.

ii. The Committee's view

The Committee recommends:

That a remote voting solution be built by the House of Commons administration for before September for legislative voting during the COVID-19 pandemic.

That during virtual or hybrid sittings, members of the House of Commons can automatically avail themselves of remote voting by electronic means.

That, for any virtual or hybrid proceedings, the Speaker may, with the agreement of House leaders and whips of the recognized parties, modify any procedure, practice or Standing Order related to the taking of recorded divisions, for the purpose of respecting public health guidance concerning physical distancing, including:

- (a) the number of members required to demand the taking of a recorded division;**
- (b) the length of time the bells are sounded to call in the members;**

226 Vickery, 1250.

227 Ibid.

228 Ibid.

229 Jourdan, 1315; Ghorbani, 1315; and Ghorbani, 1320.

- (c) the time when members may vote;**
- (d) the method by which members may indicate their votes;**
- (e) the location within the parliamentary precinct where members may indicate their votes;**
- (f) the timing and means by which each member's vote is announced; and**
- (g) the requirement for members to be present in the Chamber from the reading of the question until the declaration of the result, provided that any modifications shall be announced by the Speaker to the House before they apply.**

That the House of Commons administration develop, in consultation with members of the House, a secure means of conducting votes via secret ballots electronically, during the current pandemic, in the rare event they are ever necessary when members are unable to physically be present in the Chamber.

That a secure virtual voting system include when members of the House of Commons should vote, what they are voting on, how much time they have to vote, how they can check their vote, and how they could correct a vote cast in error.

That any new electronic voting system include the following features:

- An integrated solution that would fit with the House of Commons current motion management system.**
- A vote notification system that would be integrated to the existing bells and light system currently in place in the House of Commons and which would include notifications to the members' mobile devices.**
- End-to-end encryption, as well as enhancements to the House's monitoring technologies and a recording of all activity on the system in immutable logs.**
- Various methods of member authentication.**
- A dedicated, secure application on members' House of Commons-managed mobile device to read the motion and cast their vote.**
- Recording and archiving of results.**



- **Publication of results.**
- **Auditability of the system.**
- **Multiple redundancies that would enable is to recover from various potential failures or a combination thereof.**
- **The use of technologies that have the appropriate security certifications and permit the House of Commons administration and its security partners to perform the appropriate audits in order to mitigate risks.**

That monitoring occurs on any remote voting system for threats and overall system performance.

- **Develop a set of indicators and thresholds for ongoing monitoring and early detection of any threats to the security of the system.**
- **Ensure that all system performance issues are dealt with swiftly to avoid system failures.**
- **Ensure all threat actors are neutralized through the multiple layers of security.**

That procedure safeguards be developed for potential challenges that may arise.

- **The Speaker will have the discretion to determine when system performance reaches a point where results need to be disqualified and a vote recalled.**

That the House of Commons administration provide for an alternative voting system to supplement any electronic voting system that will be made available to members so that they can participate in voting sessions in case of complications or problems with internet connections or the failure of authenticated information technology, or in case of unexpected failure of the electronic voting system to ensure members can always exercise their parliamentary privileges and communicate their vote by other means (vote by House-authenticated cellular phone, vote by proxy, etc.).

That any electronic voting sessions be carried out using a multi-level security system for authenticating and validating results (including but not limited to the following: email, biometric authentication, the existing authentication system for electronic equipment

provided by the House and video of members indicating their voting intention) and that this system be approved by all recognized parties prior to its implementation.

That the Communications Security Establishment of Canada review and report to the Committee, the leaders and House leaders and whips of each recognized party and independent members on the secure use of any technological voting solutions presented by the House of Commons administration as soon as possible.

That voting periods occur only during times that will be determined when the Standing Orders that apply during the current pandemic are triggered and that these times be amendable only with the unanimous consent of all recognized parties.

That, as per usual practice, members of the House only vote during scheduled sitting weeks pursuant to Standing Order 28(2) or after the House of Commons is recalled by the Speaker pursuant to Standing Order 28(3) provided members are given a minimum of 48-hours notice except where the House leaders and whips of all recognized parties agree to waive the notice period.

That under any potential systems for remote voting, the House of Commons administration take into consideration and plan for potential adaptations for members living with a disability.

That the House of Commons administration provide regular reports to the Committee on additional expenses and internally-allocated resources incurred in the implementation and operation of any remote voting system.

J. Proposed amendments to the Standing Orders in the Speaker's Report

i. Options for the Committee's consideration

- Add new standing order 1.2. Remote participation by members. The language for the standing order is found in the Speaker's Report.
- Add new standing order 115(6) Virtual meetings. The language for the standing order is found in the Speaker's Report.
- Add a set of Standing Order changes, as provided by the Speaker to the Committee in correspondence dated 9 June 2020 (see Appendix A).



ii. The Committee's view

The Committee recommends that:

That the House amend the Standing Orders by adding the following as Standing Order 1.2:

1.2 (1) In the event of a crisis or exceptional circumstances, the Speaker may, with the agreement of all recognized parties:

- (a) change the time and date of the next sitting scheduled pursuant to Standing Order 28(2), if necessary, to allow for additional or alternative arrangements to be made for the House to meet. The House sits at the time determined by the Speaker, who must notify all members of any change.**
- (b) modify the application of any provision of a standing order, special order or usual practice of the House, in the manner provided for in section (2) of this standing order, for a predetermined period of time that can only be modified if all recognized parties agree, in order to allow members to participate remotely in the business of the House, in addition to those members participating in the Chamber, when appropriate.**

(2) During the time provided for in paragraph (1)(b) of this standing order, the following provisions apply:

- (a) Members who participate remotely in a sitting of the House or a meeting of its committees are counted for the purpose of quorum.**
- (b) (i) Routine Proceedings are limited to the following rubrics, assuming that the information technology logistics enable at least two standing committees to sit at the same time as the House:**
 - **Tabling of Documents (pursuant to Standing Orders 32 or 109)**
 - **Introduction of Government Bills**
 - **Statements by Ministers (pursuant to Standing Order 33)**
 - **Presenting Reports from Interparliamentary Delegations (pursuant to Standing Order 34)**

- **Presenting Reports from Committees (pursuant to Standing Order 35)**
- **Introduction of Private Members' Bills**
- **First Reading of Senate Public Bills**
- **Motions**
- **Presenting Petitions (pursuant to Standing Order 36(6))**
- **Questions on the Order Paper.**

(ii) The daily order of business, for which members may participate remotely and or in-person, is limited to the following, assuming that the information technology logistics enable two standing committees to sit at the same time as the House:

- **Routine Proceedings**
- **Statements pursuant to Standing Order 31**
- **Oral Questions**
- **Private Members' Business**
- **Government Orders**
- **Notices of Motion for the Production of Papers**
- **Adjournment Proceedings.**

(iii) Notwithstanding the above, all recognized parties can agree to modify the Routine Proceedings rubrics and the daily order of business.

(iv) Unless there is unanimous consent to the contrary among the recognized parties, the daily order of business provided for in Standing Order 30(6) is maintained in the event of a crisis or exceptional circumstances.

- (c) (i) Any reference to the need for members to rise or to be in their place, as well as any reference to the chair, the table or the chamber is interpreted in a manner consistent with the virtual nature of the proceedings.**



- (ii) The application of Standing Order 62 is suspended for any member participating remotely.**
- (d) Any return, report or other paper required to be tabled or presented in accordance with any act or standing order can be submitted electronically.**
- (e) (i) Standing, special and legislative committees, as well as their subcommittees, where applicable, are authorized to hold virtual meetings where members can participate remotely.**

(ii) Priority of use of House resources for meetings is established by an agreement of the whips of all recognized parties.
- (f) Recorded divisions are conducted electronically in the following manner:**

 - (i) When the question is put, the Speaker asks members to express themselves by a show of hands.**
 - (ii) Upon a division, the “yeas” and “nays” shall not be entered in the Journals, unless demanded by five members.**
 - (iii) No further debate is to be permitted when the Speaker asks members to cast their vote.**
 - (iv) Within two minutes after a recorded division is requested, the whip of a recognized party may ask the Speaker to defer the division in a manner similar to that provided for in Standing Order 45.**
 - (v) Before a recorded division is held, the Speaker announces the period of time allotted for members to cast their vote electronically. If two or more votes are to be held successively without intervening debate, members may vote on more than one question during the time allotted provided that these questions are not dependent on another motion or proceeding. Thirty minutes are allotted for a maximum of 10 votes. When necessary, three minutes for each additional vote are added. The result of each vote is announced at the end of the time provided for voting.**
 - (vi) When the question is dependent on another motion or proceeding, the Speaker announces each result, and five minutes are allotted to vote on each subsequent question necessary to dispose of the item.**

(vii) A vote can take place only during the times that have previously been agreed to by the recognized parties. If a request for a vote is made outside such a time, the vote is automatically deferred to the next available time.

K. Revisit any recommendations made in this study by September 2020

i. Options for the Committee's consideration

- Before the House of Commons resumes sitting, the Committee should review and potentially revise any recommendations made in this report, in light of the most up-to-date data, trends, news and health protocols related to the COVID-19 pandemic.

ii. The Committee's view

The Committee recommends:

That the Committee meet in early September, before the House resumes, to review and revise any recommendations made in this report by 16 September 2020, in light of the most up-to-date health data and public health advice. And that the Committee meet and review the preparedness for and implementation of the remote voting process and/or other voting processes to assess any necessary improvements and look at other jurisdictions that have implemented similar measures, for incorporating best practices.

That, following sufficient experience with the implementation of a virtual or hybrid Parliament, the committee review all digital and other tools used during the COVID-19 pandemic and report back to parliament with recommended changes and updates for the future use of these tools during emergency situations. Should the COVID-19 pandemic persist, the committee will regularly conduct these reviews and report back to Parliament.

L. Miscellaneous recommendations

The Committee recommends:

That the House consider all the work the Committee carried out for the pandemic- and procedure-related studies it conducted. The Committee wishes to ensure all its recommendations are taken into account in the development of any virtual Parliament and in the implementation and use of any electronic systems it might use if adopted.



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Note that this report supplements the preceding report, entitled *Parliamentary Duties and the COVID-19 Pandemic* (presented to the House on 15 May 2020), and that all the recommendations are important to preserving the parliamentary rights and privileges of the House and its members.

That, except in cases of clear incompatibility, the recommendations of the previous report, entitled *Parliamentary Duties and the COVID-19 Pandemic*, be deemed, *mutatis mutandis*, part of this report.

APPENDIX A

Proposition: Addition of a New Standing Order to Regulate the Business of the House and its Committees in the Event of a Crisis or Exceptional Circumstances

1.2 (1) In the event of a crisis or exceptional circumstances, the Speaker may, with the agreement of all recognized parties:

- (a) change the time and date of the next sitting scheduled pursuant to Standing Order 28(2), if necessary, to allow for additional or alternative arrangements to be made for the House to meet. The House sits at the time determined by the Speaker, who must notify all members of any change.
- (b) modify the application of any provision of a standing order, special order or usual practice of the House, in the manner provided for in section (2) of this standing order, for a predetermined period of time that can only be modified if all recognized parties agree, in order to allow members to participate remotely in the business of the House.

(2) During the time provided for in paragraph (1)(b) of this standing order, the following provisions apply:

(see the column entitled “Modifications” for the paragraphs of this section)

Subject	Standing Orders	Modifications
Presence of members	in the chamber: 4(2) and 15 for the purpose of quorum: 29(1) to (3) and (5), 107(4) and 118	(a) Members who participate remotely in a sitting of the House or a meeting of its committees are counted for the purpose of quorum.
Routine Proceedings and orders of the day	30(3) to (6)	(b) (i) Routine Proceedings are limited to the following rubrics: (ii) The daily order of business is limited to the following:
Physical setting of the House	members rising to speak: 3.1, 17, 19, 26(2), 31, 35(2), 39(5)(b), 52(3), 53.1(3)(d), 57, 66(2)(c), 73(1)(a), 74(2)(b), 78(1), (2)(a) and (3)(a), 95(1) and (2), Appendix II ss. 56(2)(c) and (3) members rising to request a vote or other: 43(2)(b), 45(1), (5)(a)(ii) and (iii) and (7), 53(4), 56.1(3), 56.2(2) and 98(3)(a) “from his/her place”: 32(2), 35(1), 36(6), 81(10)(b) and 83(2) “from the chair”: 4(3), 26(1), 43(1), 53(1), 100 and 102(1) “available at the table”: 4(3) and 44.1(1) “withdrawal from the chamber”: 11(1), 14, 20 and 158 decorum: 16 Motion “That a member be now heard”: 62	(c) (i) Any reference to the need for members to rise or to be in their place, as well as any reference to the chair, the table or the chamber is interpreted in a manner consistent with the virtual nature of the proceedings. (ii) The application of Standing Order 62 is suspended for any member participating remotely.

Tabling and presentations

at the table or with the clerk: 32(1), (2), (4) to (7)
reports from delegations: 34(1) reports from committees: 35(1) petitions: 36(4) to (6)

Committees

108(1)(a) and 115(1) to (4)

Recorded divisions and bells

29(3), 45(3) to (6) and (8), 115(5) and 126(1)(c)

(d) Any return, report or other paper required to be tabled or presented in accordance with any act or standing order can be submitted electronically.

(e) (i) Standing, special and legislative committees, as well as their subcommittees, where applicable, are authorized to hold virtual meetings where members can participate remotely.

(ii) Priority of use of House resources for meetings is established by an agreement of the whips of all recognized parties.

(f) Recorded divisions are conducted electronically in the following manner:

(i) When the question is put, the Speaker asks members to express themselves by a show of hands.

(ii) Upon a division, the “yeas” and “nays” shall not be entered in the Journals, unless demanded by five members.

(iii) No further debate is to be permitted when the Speaker asks members to cast their vote.

Secret ballots

2(1) and (2), 4 (lead-in), 7(3), 92(4)(b) and 106(3)

(iv) Within two minutes after a recorded division is requested, the whip of a recognized party may ask the Speaker to defer the division in a manner similar to that provided for in Standing Order 45.

(v) Before a recorded division is held, the Speaker announces the period of time allotted for members to cast their vote electronically. If two or more votes are to be held successively without intervening debate, members may vote on more than one question during the time allotted provided that these questions are not dependent on another motion or proceeding. Thirty minutes are allotted for a maximum of 10 votes. When necessary, three minutes for each additional vote are added. The result of each vote is announced at the end of the time provided for voting.

(vi) When the question is dependent on another motion or proceeding, the Speaker announces each result and five minutes are allotted to vote on each subsequent question necessary to dispose of the item.

APPENDIX B LIST OF WITNESSES

The following table lists the witnesses who appeared before the Committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the Committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
Communications Security Establishment Scott Jones, Head Canadian Centre for Cyber Security	2020/06/02	19
House of Commons Hon. Anthony Rota, M.P., Speaker of the House of Commons Stéphan Aubé, Chief Information Officer Digital Services and Real Property Philippe Dufresne, Law Clerk and Parliamentary Counsel André Gagnon, Deputy Clerk, Procedure Michel Patrice, Deputy Clerk, Administration Charles Robert, Clerk of the House of Commons	2020/06/02	19
As an Individual Hon. Bill Blaikie, P.C., Former Deputy Speaker of the House of Commons Marc Bosc, Former Acting Clerk of the House of Commons Dale Smith, Freelance Journalist and Author	2020/06/04	20
Deveaux International Governance Consultants Inc. Kevin Deveaux, Lawyer and Chief Executive Officer	2020/06/04	20
House of Assembly of Newfoundland and Labrador Hon. Siobhan Coady, Minister of Natural Resources and Government House Leader	2020/06/04	20

Organizations and Individuals	Date	Meeting
<p>Legislative Assembly of British Columbia</p> <p>Hon. Mike Farnworth, Minister of Public Safety and Solicitor General of British Columbia and Government House Leader</p> <p>Mary Polak, Official Opposition House Leader</p>	2020/06/04	20
<p>Global Partners Governance</p> <p>Sue Griffiths, Executive Director</p> <p>Greg Power, Founder and Board Chair</p>	2020/06/09	21
<p>House of Commons of the United Kingdom of Great Britain and Northern Ireland</p> <p>Right Hon. Karen Bradley, M.P., Chair of the Procedure Committee</p>	2020/06/09	21
<p>House of Lords of the United Kingdom of Great Britain and Northern Ireland</p> <p>Simon Burton, Clerk Assistant</p>	2020/06/09	21
<p>Inter-Parliamentary Union</p> <p>Gabriela Cuevas Barron, President</p>	2020/06/09	21
<p>Parliament of the United Kingdom of Great Britain and Northern Ireland</p> <p>Matt Stutely, Director of Software Engineering Parliamentary Digital Service</p>	2020/06/09	21
<p>Arc4dia</p> <p>Pierre Roberge, President</p>	2020/06/11	22
<p>As an Individual</p> <p>Aleksander Essex, Associate Professor University of Western Ontario</p> <p>Ali Ghorbani, Professor and Director, Canadian Institute for Cybersecurity University of New Brunswick</p> <p>Nicole Goodman, Assistant Professor Brock University</p> <p>Guy-Vincent Jourdan, Professor of Computer Science Faculty of Engineering, University of Ottawa</p> <p>Chris Vickery, Director of Cyber Risk Research UpGuard</p>	2020/06/11	22

Organizations and Individuals	Date	Meeting
Samara Centre for Democracy Michael Morden, Research Director	2020/06/11	22
House of Commons of the United Kingdom of Great Britain and Northern Ireland Right Hon. Harriet Harman, M.P.	2020/06/12	23
House of Commons Hon. Anthony Rota, M.P., Speaker of the House of Commons Stéphan Aubé, Chief Information Officer Digital Services and Real Property Philippe Dufresne, Law Clerk and Parliamentary Counsel André Gagnon, Deputy Clerk, Procedure Michel Patrice, Deputy Clerk, Administration Charles Robert, Clerk of the House of Commons	2020/07/06	27

APPENDIX C LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the Committee related to this report. For more information, please consult the Committee's [webpage for this study](#).

Canadian Association of Professional Employees

Deibert, Ronald J.

Department of Public Works and Government Services

International Association of Conference Interpreters

Neuvote

Submitted by Members of Parliament

Rota, Hon. Anthony (Speaker of the House of Commons)

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 19 to 24, and 26 to 32](#)) is tabled.

Respectfully submitted,

Ruby Sahota
Chair

THE CONSERVATIVE PLAN FOR SAFE, RESPONSIBLE HOUSE SITTINGS

The Liberals' drive to implement remote electronic voting could have vast unintended consequences to centuries of parliamentary practices. It strikes at the heart of the fundamental nature of parliamentary democracy itself and risks national unity.

"Parliament is not a *congress* of ambassadors from different and hostile interests ... but parliament is a *deliberative* assembly of *one* nation, with *one* interest, that of the whole," as Edmund Burke famously addressed the electors of Bristol.¹ By turning our House of Commons from one body which meets together and reaches a collective decision into a collection of 338 physically-separated decision-makers, it will strain the ability to reach truly pan-Canadian decisions which benefit the whole of Canada.

Though the majority of the Procedure and House Affairs Committee recommends multiple voting methods be tested, before any alternative voting procedures are put in place, the thrust and detail of many of the Committee's other recommendations adopted spell out the Liberals' preferred answer: remote, app-based voting.

Of course, we recognize the COVID-19 pandemic requires us to change our routines. However, the underlying currents, during this study, heading toward a remote voting app made us question, again, if "a crisis was not being left to go to waste".

The underlying Liberal motivations left us skeptical

The Liberal interest in electronic voting is not a new curiosity, arising solely in response to the current pandemic. In fact, it has a long history.

In 1997, at one of this Committee's first meetings following that year's election, the then-Government House Leader, the Honourable Don Boudria, attended "to suggest the time has come to move to electronic voting in the House of Commons."²

In 2001, the then-Liberal government, freshly re-elected, pledged in its Speech from the Throne, that "the Government will make further proposals to improve procedures in the House and Senate. Among other measures, voting procedures will be modernized in the House of Commons".³ Indeed, it would be this Committee's first study.⁴ Though two Liberals courageously voted against their whip, stalling a report,⁵ the Committee soon agreed "in principle [to] the adoption of an electronic voting system in the House".⁶

While waiting for a report from the Clerk of the House before proceeding further,⁷ the topic was not taken up again. Yet, the project nevertheless evolved. As the former special committee on House modernization noted, in 2003, "the Chamber Technology Infrastructure Project, which will be implemented this summer and next, will ensure that the Chamber has the necessary

¹ *The Works of the Right Honourable Edmund Burke*, Vol. I (1854), p. 447 (italics in original)

² Standing Committee on Procedure and House Affairs, *Evidence*, November 6, 1997 (1105)

³ *Debates*, January 30, 2001, p. 16

⁴ Standing Committee on Procedure and House Affairs, *Minutes of Proceedings*, February 20, 2001

⁵ Standing Committee on Procedure and House Affairs, *Minutes of Proceedings*, May 29, 2001

⁶ Standing Committee on Procedure and House Affairs, *Minutes of Proceedings*, June 7, 2001

⁷ Standing Committee on Procedure and House Affairs, *Minutes of Proceedings*, October 16, 2001

infrastructure in place to permit some system of electronic voting, *if and when it is approved*.⁸ That report recommended the development of “a detailed proposal for an electronic voting system”, so that “such a system, *if approved*, be implemented as part of the renovations to the chamber in the summer of 2004.”⁹ While the recommendation was never concurred in by the House,¹⁰ the necessary infrastructure for electronic voting was still installed in Members’ desks.¹¹

Flashing forward to the current Liberal government, the then-Government House Leader, the Honourable Bardish Chagger, proposed in her highly controversial 2017 discussion paper that “consideration should be given to how technology could be incorporated into the proceedings of the House.... One obvious application of technology to the operation of the House is electronic voting.”¹² Ms. Chagger called upon the House to “think about truly modernizing how we spend our time here”, defending this proposal as allowing “more time to get work done outside the chamber.”¹³

In last year’s general election, the Liberal Party committed to “working with Parliament to introduce new technology or other institutional changes to better connect Members with their constituents”.¹⁴ A candidate who ran on that platform explained it to us as “basically how we get things working better than they are today and serve Canadians better.”¹⁵ The platform’s vague, cryptic—almost coded—language was transposed into the Prime Minister’s mandate letter to the Government House Leader.¹⁶

During recent weeks, when Liberals have been at pains to assert that their interest in remote voting is purely a pandemic measure, the mask sometimes slipped.

In the House debate on the motion instructing the Committee to undertake this study, Rachel Bendayan, a parliamentary secretary (and a former chief of staff to Ms. Chagger), told the House about her “24/7” constituency work—something every one of us knows well during this pandemic—and said that the Liberal motion “would allow us to continue this important work in our ridings.”¹⁷

More recently, the Government House Leader, the Honourable Pablo Rodriguez, issued a press release calling upon us to “support proposals to modernize the House so that MPs can vote electronically.”¹⁸

So, which is it? Is the pandemic edition of electronic voting meant to be a health precaution? Or is it really a cover to “modernize” the House and allow Liberal MPs to stay in their ridings? The reader can understand our doubts about Liberal motives.

⁸ Special Committee on the Modernization and Improvement of the Procedures of the House of Commons, Fifth Report (37th Parl., Second Sess. (June 2003)), para. 7 (*italics added*)

⁹ *Idem*

¹⁰ *House of Commons Procedure and Practice* (third ed., 2017) [Bosc and Gagnon], p. 264, fn. 47

¹¹ *Ibid.*, p. 296, fn. 94

¹² Leader of the Government in the House of Commons, “Modernization of the Standing Orders of the House of Commons”, March 2017

¹³ *Debates*, April 3, 2017, p. 10078

¹⁴ Liberal Party of Canada, *Forward: A Real Plan for the Middle Class*, p. 54

¹⁵ Standing Committee on Procedure and House Affairs, *Evidence*, July 6, 2020, p. 19 (Hon. Anthony Rota, M.P.)

¹⁶ Prime Minister, letter to the Leader of the Government in the House of Commons, December 13, 2019

¹⁷ *Debates*, May 26, 2020, p. 2416

¹⁸ Twitter, Pablo Rodriguez (@pablorodriguez), June 18, 2020 (online)

Despite the Liberal talking points and contrary to the government's instruction motion to "make recommendations on how to modify the Standing Orders *for the duration of the COVID-19 pandemic*"; and even in defiance of the majority's observation that "the Committee heard unanimously from witnesses that [Standing Order changes] should have a fixed expiration date"—printed beneath the heading "formal Standing Order changes of a fixed duration" and just ahead of the heading "need for thorough study prior to making permanent modifications to the Standing Orders"—the majority has recommended permanent amendments to the Standing Orders, plus other recommendations applicable beyond the current pandemic.

The Official Opposition recommends that any changes proposed by the Committee, including amendments to the Standing Orders, expire on December 31, 2020. If pandemic conditions require, they can always be renewed (and improved based on the benefit of experience with them) for a further, defined period into 2021. Once through the pandemic, we can have a proper review of emergency preparedness.

The Liberals seemed committed not just to a direction, but to a specific outcome

From the beginning, the Liberals had their eyes on app-based voting. Like the issue of time-limited procedural reforms, the evidence would not deter them.

Though we have many concerns about remote voting, it is noteworthy that several of the Committee's witnesses strongly urged the use of video-based voting, based on our existing videoconference platform, rather than going with a separate, new smartphone application.¹⁹ (Video voting is also the system used in the Legislative Assembly of British Columbia, as well as many Canadian municipal councils—not to mention this House's own committees—and it was proposed for hybrid sittings of the Newfoundland and Labrador House of Assembly.²⁰) However, when faced with one witness's suggestion, a Liberal colleague responded, plaintively asking, "is there not an opportunity here to develop an application or have a web-based voting system".²¹

Witnesses were not just ignored, some were attacked. One panel which did not mirror the Liberals' enthusiasm was dismissed as a "wasted ... 90 minutes", with the Committee's senior Liberal backbencher declaring critical opinions unwelcome:

The only thing I would add is that I have no problem hearing from good, solid witnesses about how we do this, but the reality of the situation is that the first panel we had today ... were just talking about whether or not we should be doing it. We're well beyond that; that ship has sailed. Parliament has decided that we're going to do it, and they specifically say how we're going to do it, not if. Perhaps, as the steering committee or the subcommittee, we need to go back and revisit who these witnesses are and try to get a determination as to whether or not they're going to be providing constructive input on how we make this happen.²²

¹⁹ See, for example, Standing Committee on Procedure and House Affairs, *Evidence*, June 11, 2020, p. 8 (Dr. Nicole Goodman, Brock University), p. 9 (Dr. Aleksander Essex, University of Western Ontario), and p. 13 (Pierre Roberge, Arc4dia)

²⁰ Standing Committee on Procedure and House Affairs, *Evidence*, June 4, 2020, p. 20 (Mary Polak, M.L.A., Opposition House Leader (British Columbia)) and p. 24 (Hon. Mike Farnworth, M.L.A., Government House Leader (British Columbia)); June 11, 2020, p. 3 (Dr. Goodman); Newfoundland and Labrador House of Assembly, Select Committee of Rules and Procedures Governing Virtual Proceedings of the House of Assembly (49th General Assembly, First Sess., Final Report (June 2020)), p. 12

²¹ Standing Committee on Procedure and House Affairs, *Evidence*, June 11, 2020, p. 8 (Ryan Turnbull, M.P.)

²² Standing Committee on Procedure and House Affairs, *Evidence*, June 4, 2020, p. 27 (Mark Gerretsen, M.P.)

In fairness, we got a preview of this during deliberations on the Committee’s May report when the Australian House of Representatives—from which we would have really appreciated hearing witnesses, given it is also part of a continent-spanning, federal, bicameral parliament partly sharing a common constitutional history with Canada—was dismissed as “the least progressive”.²³ Given Australia’s COVID-19 experience—with only 10% of the cases and 1% of the deaths as Canada has experienced²⁴—perhaps it is little surprise the Liberals would not welcome pandemic comparisons.

According to research prepared for the Committee, electronic, remote voting has not been implemented in most major comparative, elected legislatures, such as the Australian Senate and House of Representatives, the French Senate and National Assembly, the New Zealand House of Representatives, the United Kingdom House of Commons (except for seven sitting days at the height of its pandemic), the United States Senate and House of Representatives, as well as provincial and territorial legislative assemblies (with the exception of British Columbia).²⁵

As for the broader international experience, the majority’s report notes Gabriela Cuevas Barron’s evidence about the proportion of legislatures using digital tools and remote proceedings. However, it should be noted these figures would also include, for example, Cuba’s National Assembly of the People’s Power,²⁶ a place most Canadians would not associate with robust democracy. It’s little wonder the majority was not interested in adding the Inter-Parliamentary Union President’s caveat:

We receive the reports that the national parliaments want us to receive. We receive beautiful news from most parliaments. The IPU study has a bias, to be honest. If I review the notes I have received, some very authoritarian countries are saying they have lovely parliaments, and we all know that is not true.²⁷

We, too, know it’s not true, yet the Liberals are happy to present it as evidence in favour of their virtual parliament designs.

The Committee worked hard—but in service of a Liberal talking point

In defending May’s renewed suspension of regular sittings, some ten weeks after they ended, the Prime Minister invoked the sudden need to consider new voting methods before the House could resume,²⁸ this after also justifying April’s suspension on the basis of figuring out a virtual parliament.²⁹ Yet, committees had been able to vote effortlessly—once they were permitted by the Liberals to consider votable business.

Meanwhile, our United Kingdom counterparts managed this spring to accomplish many innovations all while transacting parliamentary business (not to mention that our sibling

²³ Standing Committee on Procedure and House Affairs, *Evidence*, May 13, 2020, p. 48 (Mr. Turnbull)

²⁴ World Health Organization, “WHO Coronavirus Disease (COVID-19) Dashboard” (online, accessed July 16, 2020)

²⁵ House of Commons Procedural Services, “International Parliamentary Responses to the COVID-19 Pandemic” (June 2020), pp. 4-5; “COVID-19: Provincial and Territorial Legislatures” (June 2020), p. 3

²⁶ Inter-Parliamentary Union, “Country compilation of parliamentary responses to the pandemic” (online, accessed July 14, 2020)

²⁷ Standing Committee on Procedure and House Affairs, *Evidence*, June 9, 2020, p. 21

²⁸ *National Post*, “Liberals preparing to postpone Parliament until September, with help from the NDP”, May 26, 2020

²⁹ *The Vancouver Sun*, “House about to return, but in what form?”, April 18, 2020, p. NP4

committee managed to produce five reports in the same period)³⁰. Over this time, the U.K. House of Commons has, so far, incorporated physical distancing into its regular voting process, empowered all committees to conduct full business virtually, allowed hybrid sittings for “scrutiny proceedings”, applied attendance limits in the Chamber, expanded hybrid sittings to “substantive proceedings”, endorsed the principle of remote voting, authorized remote voting, reverted to in-person voting, implemented a new voting method within the Chamber, resumed hybrid “scrutiny proceedings”, authorized and expanded proxy voting by certain MPs, and reverted to lobby-based voting with new measures for physical distancing.³¹ Canada’s “innovation” pales in comparison.

It’s important to bear in mind that the U.K.’s initial, rapid reforms enjoyed all-party consensus, as Conservative and Labour MPs told us.³² Indeed, as Matthew Hamlyn, an official with the U.K. House, told the Committee, the government could have, with its majority of 80, got anything it wanted; instead, “That’s not been the approach. There’s been a lot of very thorough consultation between parties.”³³

Given the productivity of our Committee’s U.K. counterpart, we certainly could have found practical, workable solutions in much less time had the government invested the political will. The Prime Minister’s fixation on remote voting, as a means of avoiding all other aspects of Parliament, and his MPs’ lust to vote by app, threw two recent observations by veteran journalist Paul Wells into sharp relief:

- This government is deeply in love with the idea that it can only handle one problem at a time. It seems to view this as some kind of virtue.³⁴
- complex problems actually don’t get solved with innovation and partnership that you can see from the moon. Complex problems are a slog. They’re boring. They’re no fun.... Getting there from here is the kind of dreary, discouraging work that self-impressed governments like to avoid while they build still more monuments to their own cleverness.³⁵

It’s a shame that parliamentary accountability was sacrificed for the Liberals’ virtue in pushing for a sleek, clever voting app. Canada’s experience, meanwhile, stands in contrast to the U.K. where, as the Right Honourable Harriet Harman, a senior opposition MP, told us, “I don’t feel the government has been trying to evade accountability.”³⁶

While the Committee’s work was important, the government’s approach leaves us to conclude

³⁰ United Kingdom House of Commons, Procedure Committee, “Procedure under coronavirus restrictions: proposals for remote participation” (First Report of Sess. 2019-21 (April 2020)); “Procedure under coronavirus restrictions: remote voting in divisions” (Second Report of Sess. 2019-21 (May 2020)); “Procedure under coronavirus restrictions: the Government’s proposal to discontinue remote participation” (Third Report of Sess. 2019-21 (May 2020)); “Procedure under coronavirus restrictions: the Government’s proposal for proxy voting for shielding Members” (First Special Report of Sess. 2019-21 (June 2020)); “Procedure under coronavirus restrictions: Government Responses to the Committee’s First, Second and Third Reports (Second Special Report of Sess. 2019-21 (July 2020))

³¹ United Kingdom House of Commons, *Official Report*, March 23, 2020, column 24; May 6, 2020, column 537; June 16, 2020, column 645; *Votes and Proceedings*, March 24, 2020, p. 5; April 21, 2020, pp. 1-2; April 22, 2020, pp. 3-5; June 2, 2020, pp. 3-4; June 4, 2020, pp. 2-3; June 10, 2020, p. 3; Speaker of the (United Kingdom) House of Commons, letter to Members of the (United Kingdom) House of Commons, June 1, 2020

³² Standing Committee on Procedure and House Affairs, *Evidence*, June 9, 2020, p. 2 (Rt. Hon. Karen Bradley, M.P., Chair of the Procedure Committee); June 12, 2020, pp. 2, 7 (Rt. Hon. Harriet Harman, M.P., former Leader of the House of Commons)

³³ Standing Committee on Procedure and House Affairs, *Evidence*, April 30, 2020, p. 12

³⁴ *Maclean’s*, “The UN Security Council rout: Canada’s (at the) back!”, June 17, 2020 (online)

³⁵ *Maclean’s*, “Liberals are dreaming big, but dreaming is the easy part”, June 15, 2020 (online)

³⁶ Standing Committee on Procedure and House Affairs, *Evidence*, June 12, 2020, p. 8

that this study had more to do with validating a Liberal talking point.

The House of Commons must—and can—conduct its business in person

May's Conservative dissent outlined (as extensively as the ten-page limit allowed) the compelling arguments for the House of Commons to resume promptly its regular orders of business in its proper location. We have not changed our minds on this.

In the subsequent months, provincial legislatures have continued or resumed sitting:

- Ontario's Legislative Assembly will continue its spring sitting until July 22, with a new voting procedure using its lobbies.³⁷
- Quebec's National Assembly sat until June 12, using a block voting procedure, adjourning to September 15.³⁸
- New Brunswick's Legislative Assembly sat, with modified seating arrangements, from May 26 to 28 and from June 9 to 18, adjourning to September 15.³⁹
- Manitoba's Legislative Assembly continued its spring sitting until May 27.⁴⁰
- British Columbia's Legislative Assembly resumed June 22, with hybrid sittings, and is expected to sit until August 14.⁴¹
- Prince Edward Island's Legislative Assembly sat, with modified seating arrangements, from May 26 until July 14.⁴²
- Saskatchewan's Legislative Assembly sat, with attendance limits and using a proxy voting procedure, from June 15 until July 3.⁴³
- Alberta's Legislative Assembly will continue its spring sitting until July 23.⁴⁴
- Newfoundland and Labrador's House of Assembly sat, with modified seating arrangements, from June 9 to 18.⁴⁵

Notably, the only provincial legislature without pandemic sittings is Nova Scotia's—also, the only one with a Liberal majority—and that has not gone without controversy.⁴⁶

Since May, other parts of the Canadian economy and society, too, in all parts of the country, have started returning to something resembling normality as businesses re-open, inter-provincial quarantine requirements are removed or reduced, travel patterns rebound, permitted gathering sizes increase, personal protective equipment stocks rebuild, and testing and contact-tracing protocols have greatly strengthened. The case for the House of Commons resuming its sittings is even stronger than it was in May.

³⁷ Legislative Assembly of Ontario, *Votes and Proceedings*, June 2, 2020, pp. 8-11

³⁸ National Assembly of Quebec, *Votes and Proceedings*, May 13, 2020, pp. 1782-1798; June 12, 2020, p. 2036

³⁹ Legislative Assembly of New Brunswick, *Journal*, May 26, 2020, pp. 1-2; May 28, 2020, p. 1

⁴⁰ Legislative Assembly of Manitoba, *Votes and Proceedings*, May 27, 2020, p. 143

⁴¹ Legislative Assembly of British Columbia, *Votes and Proceedings*, June 22, 2020, pp. 2-5

⁴² CBC Prince Edward Island, "COVID-ready legislative chamber has a new look", May 22, 2020 (online); Legislative Assembly of Prince Edward Island, *Hansard*, July 14, 2020, p. 3298

⁴³ Legislative Assembly of Saskatchewan, *Votes and Proceedings*, June 15, 2020, p. 1; July 3, 2020, p. 4; Legislative Assembly of Saskatchewan, Standing Committee on House Services, Fifteenth Report (28th Leg., Fourth Sess. (June 2020)), pp. 18, 24-25, 28, 30-31

⁴⁴ Legislative Assembly of Alberta, *Votes and Proceedings*, May 27, 2020, p. 5

⁴⁵ Newfoundland and Labrador House of Assembly, *Hansard*, June 9, 2020, pp. 1873, 1891

⁴⁶ *The Chronicle-Herald*, "Legislative lockdown only protects McNeil Liberals", June 17, 2020 (online); CBC Nova Scotia, "Opposition criticize N.S. legislative committees for going MIA amid COVID-19", June 17, 2020 (online); "Premier suggests legislative committee meetings are threat to public safety", June 18, 2020 (online)

In May, we outlined evidence about safe gatherings in West Block. Nothing in this regard has changed. From March 14 to July 5, there were 190 parliamentary gatherings—including nine House sittings, 18 meetings of the Special Committee on the COVID-19 Pandemic in the Chamber, four in-person committee meetings, plus 159 virtual committee and Board of Internal Economy meetings, for which officials, staff, interpreters, etc., were physically present on Parliament Hill. In respect of these 190 gatherings, there were no actual or suspected COVID-19 cases linked to them, no precautionary quarantines or self-isolation required because of attendance at them, and none of them have been of interest in any contact tracing investigations.⁴⁷

It is possible for the House to sit safely—our experience shows just that. For those meetings, physical distancing has been successfully observed through attendance reduced by self-restraint. We were reassured by the House Administration’s analysis showing that 86 Members, plus the Speaker, can be seated in the Chamber in full compliance with physical distancing advice.⁴⁸ Therefore, **the Official Opposition recommends that the House resume its scheduled sittings, in the Chamber, and to ensure physical distancing, (a) Standing Order 17 (concerning the use of assigned seats) be suspended, and (b) the Speaker may regulate the presence of Members within the Chamber, up to a maximum of 86 Members at any one time, provided that any limit shall be subject to “sub-limits” established for each party based on its proportionate share of the total seats in the House.**

While travel remains available, safe and perfectly legal,⁴⁹ we acknowledge keeping up pre-pandemic travel patterns is not advisable. As the *Globe and Mail’s* editorial board wrote, “if a small number of MPs have to spend the next few weeks in Ottawa, without flying home on weekends, so be it.”⁵⁰ We also recognize that the House’s collective privileges include the authority to maintain the attendance and service of its Members.⁵¹ Therefore, **the Official Opposition also recommends that Members physically attending sittings of the House be strongly encouraged to remain in the National Capital Region during weekends between sitting weeks, to minimize travel into and out of the region.** This is but a trifling sacrifice compared to the hardships of Canada’s earliest parliamentarians which had been explained to the Committee.⁵²

Another of the House’s collective privileges is the right to regulate its internal affairs, including the administration of its precinct.⁵³ One notable exercise of this privilege for the pandemic was the Legislative Assembly of Ontario’s implementation of a “COVID-19 Active Screening Protocol”, applicable to its members, including conferring “the sole and personal authority on the Speaker to refuse the entry of any Member of the Assembly ... to the Legislative Precinct”.⁵⁴ While we’re pleased the Committee recommended integrating updated health advice into House procedures, we can do better. To assure the health and safety of all present at House sittings, **the Official Opposition further recommends that Members, upon arriving in or returning to the National Capital Region, be required to be undergo COVID-19 screening and**

⁴⁷ Standing Committee on Procedure and House Affairs, *Evidence*, July 6, 2020, p. 7

⁴⁸ House of Commons Administration, “Options for In-person Voting: Procedural and Practical Considerations”, June 30, 2020, p. 10

⁴⁹ Public Health Agency of Canada, “Statement from the Chief Public Health Officer of Canada on July 12, 2020”

⁵⁰ *The Globe and Mail*, “In a time of crisis, the Trudeau government should not be sidelining Parliament”, April 20, 2020 (online)

⁵¹ Bosc and Gagnon, p. 127

⁵² Standing Committee on Procedure and House Affairs, *Evidence*, April 30, 2020, pp. 24-25 (Dr. Gary O’Brien)

⁵³ Bosc and Gagnon, pp. 120-127

⁵⁴ Legislative Assembly of Ontario, *Votes and Proceedings*, May 12, 2020, pp. 4-8

testing before first entering the Chamber; that Members, while they remain in the National Capital Region, continue to be screened or tested at least weekly; and that the House of Commons Administration engage with Ottawa Public Health, Centre intégré de santé et de services sociaux de l'Outaouais, and other appropriate public health officials as may be necessary to give effect to this recommendation.

Though most MPs could be in Ottawa, we must recognize that not all can be

As we wrote in May, accommodations are needed for those MPs who, for reasons associated with COVID-19-related public health guidance, are not able to be present can still participate in the House's constitutional duty of holding the government to account. However, we draw the line at votable business and remote decision-making.

Also in May, we outlined concerns about the constitutionality of a "virtual" quorum. While it might sound like the perfect topic for a law school faculty lounge debate, the stakes couldn't be higher. As Philippe Dufresne, the House's Law Clerk, told us, if a court disagrees, "what was adopted in the impugned proceeding [further COVID-19 aid and all other laws, for example] could be invalidated".⁵⁵

To achieve this balance, **the Official Opposition recommends that the Speaker may, with the agreement of the House leaders of the recognized parties, modify the application of any Standing Order, rule or other practice to authorize the remote participation of Members during Statements by Members, Oral Questions, Routine Proceedings, adjournment proceedings, emergency debates and take-note debates, provided that quorum for hybrid sittings be based on the presence of Members physically present in the Chamber, and that motions without notice may only be moved by Members present in the Chamber.**

With respect to committee meetings, we're relieved the Committee recommended—unlike in May—that all committees may, once again, meet and exercise all their usual powers. By September, it will have been over six months since that last happened—something, notably, the U.K. House of Commons ensured, before it took its pandemic adjournment, would not be interrupted.

Safe in-person voting is possible and doable

Voting is an integral part of parliamentary proceedings. As we heard, it must not be treated in isolation to the other parts,⁵⁶ and it must be "more than just an episodic, half-hearted online opinion poll."⁵⁷ Voting cannot, as the Honourable Bill Blaikie once described past Liberal efforts, be treated as some "kind of a bean-counting exercise".⁵⁸ A safe, responsible approach to voting, like all parts of House sittings, is necessary.

With that in mind, the Opposition House Leader, the Honourable Candice Bergen, asked the Speaker to undertake an analysis of several in-person voting alternatives.⁵⁹ In his reply, which

⁵⁵ Standing Committee on Procedure and House Affairs, *Evidence*, April 21, 2020, p. 15

⁵⁶ Standing Committee on Procedure and House Affairs, *Evidence*, April 30, 2020, pp. 20, 25 (Dr. O'Brien)

⁵⁷ Standing Committee on Procedure and House Affairs, *Evidence*, April 29, 2020, p. 16 (Dr. Cristine de Clercy)

⁵⁸ Standing Committee on Procedure and House Affairs, *Evidence*, February 27, 2001 (1200)

⁵⁹ Twitter, Candice Bergen (@CandiceBergenMP), June 11, 2020 (online)

he shared with the Committee, he outlined six different voting methods, each of which was fully compliant with current public health guidance.⁶⁰

With respect to the Speaker's analysis, there was no single voting option, in our view, which stood clearly head and shoulders above the others; in fact, one reading of it would suggest that a "mix-and-match" approach, with different circumstances suggesting a different method, might be the wisest course. Plus, all-party consensus for procedural changes, an essential principle, must be accounted for. Therefore, we were pleased the Committee endorsed the substance of our recommendation (which also formed part of an opposition motion placed on notice May 21)⁶¹ to empower the Speaker and the recognized parties' whips to modify in-person voting procedures, even if we don't understand its amendment to modify in-person voting for fully-virtual sittings.

We are also happy the Committee has recommended testing of in-person voting options this summer, though we suspect we were just being "humoured" given, as we note in the opening passages, the die seems to have been cast for implementing a voting app.

To address certain standing votes which do not use recorded divisions, **the Official Opposition recommends that, with respect to motions currently requiring ten, 15 or 25 MPs, in order to force those motions to be withdrawn, the thresholds be lowered to five MPs while Chamber attendance is restricted.**

What's old is new, again

In May, we wrote that the one constant of many centuries of parliamentary history and evolution was that business had been transacted in person, and switching away from this would be no simple matter. As the Right Honourable Karen Bradley, the Chair of our Committee's U.K. counterpart, put it, "The biggest changes to our proceedings in 700 years have happened in the last few weeks."⁶²

While a virtual parliament would have been science-fiction in the not-so-distant past, efforts to relocate parliament forcibly against members' wishes are almost as old as parliament itself. King Henry VI, a 15th Century English monarch, for example, tried to hold sessions away from Westminster, but Members also resisted those attempts.⁶³

Comparing today to much more recent history, though, we have yet another ethics scandal enveloping Justin Trudeau and his Cabinet, we have a fiscal situation which would make past Liberal governments simply blush, we are witnessing another broad-sided attack on law-abiding firearms owners by Liberal ministers, and we have yet another Liberal cabinet coming up desperately short on economic policy when Canadians sorely need help.

What's old is, indeed, new, again. All of these issues, and many more, cry out for parliamentary scrutiny and engagement.

Mr. Trudeau's six-month string of press conferences is simply no substitute for Parliament—and

⁶⁰ House of Commons Administration, "Options for In-person Voting: Procedural and Practical Considerations", June 30, 2020, p. 10; Standing Committee on Procedure and House Affairs, *Evidence*, July 6, 2020, p. 7

⁶¹ House of Commons, *Order Paper and Notice Paper*, May 25, 2020, pp. XVIII-XX

⁶² Standing Committee on Procedure and House Affairs, *Evidence*, June 9, 2020, p. 12

⁶³ The History of Parliament Trust, summary of *The Commons, 1422-1461* (online)

adding much-separated, far-flung envoys voting by smartphone will not improve this state of affairs whatsoever.

By contrast, this Conservative plan for safe, responsible House sittings will bring Canada's democracy out of its Liberal-induced coma, have the government held accountable properly, and ensure progress is made for Canadians who need it.

SUPPLEMENTARY OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA

In these times of COVID-19, how parliament will work is important and a focus of all Canadians. For this report, the NDP agrees with most of the recommendations included herein but feels that there are a few points that merit mentioning.

During the committee's deliberations there were assertions that current attempts to move the House of Commons to hybrid proceedings have been successful, and the NDP believes that a declaration of success should only be made in hindsight as there are still issues, both technological and procedural, that need to be resolved.

The NDP was glad that the committee agreed with the NDP's stance that any and all new methods of decision-making for use during the pandemic should be thoroughly tested. It was clear from the outset that some committee members had decided on the result before any testing with members of Parliament had even taken place. This new position by members of the committee will help the House of Commons avoid a situation of implementing technology before it is ready to do so and allows members to explore, experience and understand each potential decision-making solution and make suggestions for improvements as well as choose the best option while having a backup in place in the event of a failure of any preferred solution.

Finally, the NDP believes that the scope of this report wavered beyond its boundaries. The committee was tasked with finding solutions for *remote* participation of members specifically related to the COVID-19 pandemic. Some recommendations were outside of those lines, and while the NDP doesn't disagree with the idea of exploring other options and preparing for the future, it does not consider those to be part of the work the committee was asked to do by the House of Commons.

