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Chair: The Honourable Geoff Regan



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• (1835)

[English]

The Chair (Hon. Geoff Regan (Halifax West, Lib.)): I call this meeting to order. Welcome to meeting number 26 of the Special Committee on Canada-China Relations.

Pursuant to the order of reference of Wednesday, September 23, 2020, the committee is meeting on its study of Canada-China relations.

[Translation]

This meeting is in hybrid format, pursuant to the motion adopted by the House on January 25, 2021.

[English]

Pursuant to the motion adopted by this committee on Monday, April 26, 2021, the purpose of today's meeting is for the Public Health Agency of Canada to explain why the requested documents were not provided in accordance with the committee's motion for the production of documents adopted on Wednesday, March 31, 2021.

As a reminder, this motion called for unredacted documents related to the transfer of viruses that occurred in March 2019, and the revocation of security clearances and the termination of employment of two employees of the National Microbiology Laboratory.

[Translation]

These documents were supposed to be submitted to the law clerk and parliamentary counsel by April 20, 2021.

I want to start by thanking the Public Health Agency of Canada for producing the missing documents ahead of time. All the documents, in both official languages, were made available at around noon today to the committee members, who can access them through the digital binders.

Before we welcome the witnesses, I want to clarify for the committee members how we'll proceed this evening with the rounds of questions. Since the clerk has received different opinions from the vice-chairs, I would like to propose a compromise.

[English]

I propose that the witnesses be given up to 10 minutes for their opening remarks and that we do a first round of questions followed by a second round and a subsequent round. We'll then take a health break—this should be around 8 p.m.—and then repeat for another first round followed by a second round and a subsequent round.

Are there any objections to this plan?

Some hon. members: No.

The Chair: I'd also like to remind everyone that while witnesses must answer all questions that the committee puts to them, members have been urged to display “appropriate courtesy and fairness” when questioning witnesses”, as of course *House of Commons Procedure and Practice* provides at page 1079.

I would now like to welcome our witnesses.

[Translation]

We're joined by Philippe Dufresne, law clerk and parliamentary counsel at the House of Commons; and Michel Bédard, deputy law clerk and parliamentary counsel at the House of Commons.

[English]

From the Public Health Agency of Canada, we have Iain Stewart, president, as well as Dr. Guillaume Poliquin, acting vice-president, National Microbiology Laboratory.

Finally, from the Department of Justice Canada, we have Christian Roy, executive director and general counsel, health legal services.

Welcome, everyone, and thank you for being here. I will now turn to Mr. Stewart for his opening remarks.

Please proceed.

Mr. Iain Stewart (President, Public Health Agency of Canada): Thank you, Mr. Chair.

As mentioned, I'm here with my colleague, Dr. Guillaume Poliquin, and also Christian Roy from the Department of Justice.

Members, I want to begin with the steps we've taken to respond to your motion of March 31.

We've reviewed the relevant documents and worked very hard in a short period of time to prepare the package of documents that will assist you in your study. As I indicated in my letter to your law clerk, Monsieur Dufresne, we've redacted documents where the information pertained to personal information, investigations or security matters. The reason we've done so is that as public servants we're bound by law to keep confidential information confidential. It's not that we're wishing to be unco-operative or unresponsive; we are disclosing as much as we can within the limits of the law.

The Government of Canada's guiding document, entitled "Open and Accountable Government", has been used for many years to explain the obligations of witnesses before a parliamentary committee. I note in particular the passage in Annex E:

Public servants also have a duty to hold in confidence some of the information that comes into their possession in the course of their duties. There is a tension between that obligation and the request of parliamentarians for disclosure of that same information. When appearing before parliamentary committees, public servants should refrain from disclosing that kind of confidential information, for instance because the information is confidential for reasons of national security or privacy.

That's Annex E of "Open and Accountable Government".

Consistent with this guidance, in good faith, we've considered how to find ways to respond to the requests for information from the members of the committee within the limitations that we're bound to uphold. These include my obligation under the Privacy Act, which is legislation enacted by Parliament in the House of Commons to protect against the disclosure of personal information and the infringement of the privacy and rights of individuals.

In compliance with that advice, we have applied redactions to protect certain sensitive information. Accordingly, I'll do my best to assist the committee in this study while refraining from divulging information that ought to remain confidential on various grounds. I have no authority to disclose any additional information to you. As you'll see, the limitations on what we can disclose are consistently well documented throughout the package of materials that we've provided to you, which include public communications and documents previously disclosed under the access to information process. The limitations that guided those documents remain in place.

Here's what we can say about the two matters we discussed last time.

You've received many records from the Public Health Agency related to the transfer of Ebola and Henipaviruses from the National Microbiology Laboratory to the Wuhan Institute of Virology in March 2019. The basic chronology of the transfer can be found at page 111 of the package provided to your law clerk. These records demonstrate that when sharing these samples, the NML followed normal internal guidelines and all applicable requirements under the Human Pathogens and Toxins Act, or HPTA, and regulations, as well as the Transportation of Dangerous Goods Act, TDGA, and regulations related to it and the Canadian Biosafety Standard.

Here's how a transfer normally works. The NML routinely receives and shares samples with other public health laboratories to contribute to the advancement of science. Transfers follow strict protocols, including the requirements I just mentioned, as well as NML standard operating procedures. The NML has detailed procedures outlining the steps required for transferring risk group 4 pathogens in accordance with the transportation of dangerous goods regulations. These include detailed procedures outlining step-by-step roles and responsibilities for all involved in the shipment, what documentation is required by the NML and from the receiving laboratory, when to initiate an emergency response assistance plan—an ERAP—notification, as well as how to package the samples. Approvals are required at various steps throughout the process, from the initial transfer authorization to the specific shipping details.

The shipping process for risk group 4 pathogens is outlined under the mandatory ERAP. The plan assists local emergency responders and describes what to do in the unlikely event of a release of materials while they're in transit.

Regarding the March 2019 transfer, documentation of the necessary approvals is evidenced in pages 265 to 271 of the English package, including the NML transfer authorization. A number of the emails relate to the ERAP that was put in place for the shipment, such as at page 132.

• (1840)

However, full redactions were done to the laboratory certification and the letter from the director of the laboratory, as this was third party information.

You will note reference to material transfer agreements, MTAs. It's important to understand that an MTA was not in fact required for virus transfers at the time. An MTA is not a safety requirement but a document that provides a mechanism for transferring controlled materials from one party to another, primarily to safeguard intellectual property rights. As such, IP experts are consulted to determine whether an MTA is required.

While this is the only time we have shared virus samples with this particular lab, collaborations with labs outside Canada are critical to advance public health research into infectious diseases. PHAC's National Microbiology Laboratory is internationally renowned for its scientific excellence and its contributions to global health.

This maximum containment laboratory has a long-standing international reputation for sharing materials for the purpose of advancing scientific knowledge. Given our standing as a WHO collaborating partner for viral fever viruses, as well as our knowledge of regulations and standards for these types of transfers, the laboratory in Winnipeg is often asked to provide materials to new or existing programs, including laboratories in the United States. The NML is open to providing materials to other labs in a safe, responsible and transparent fashion to foster global collaboration rather than enable research on any given disease to be monopolized by specific teams. This is a component of advancing public health research and science aimed at improving public health on a global scale.

You will notice that one of the individuals named in the motion was involved in this transfer. Regarding the situation of the two individuals named in the motion, we have already confirmed that they no longer work for the NML. We have also mentioned that there had been an administrative investigation. We cannot discuss the nature of the administrative investigation, its scope, or its findings. That said, to avoid undue inferences, I want to state again, as is evidenced throughout the documentation that you received, that the fact that the transfer of the viruses took place—which, again, was done in compliance with internal policies and proper approvals—is not connected to the departure of the two employees.

As you know, there is also an RCMP investigation. I cannot comment on that matter, and questions should be directed to the RCMP.

I am happy to take your questions about these documents and answer them as best I can.

Thank you very much.

The Chair: Thank you very much, Mr. Stewart.

[Translation]

Am I right in saying that you don't have any opening remarks, Mr. Roy?

Mr. Christian Roy (Executive Director and Senior General Counsel, Health Legal Services, Department of Justice): Good evening, Mr. Chair.

Good evening, committee members.

I don't have any opening remarks, but I'll gladly answer questions.

The Chair: Thank you.

Mr. Dufresne, do you have any opening remarks?

Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons): No, Mr. Chair.

However, I'll be available to answer questions from committee members as needed.

The Chair: Thank you.

[English]

In that case, we'll go to our first round of questions.

I believe it's Mr. Chong for six minutes.

• (1845)

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

We still don't know the origin of the coronavirus. That's because the Government of China has blocked the investigation into the origins of the COVID-19 pandemic.

Not only did the Government of China delay the start of this investigation; they also did not allow WHO investigators unfettered access to pursue the scientific evidence. As a result, the world still does not know where the virus came from. Determining the exact origin of the virus is essential if the world community is to prevent the next pandemic. The Government of China has been opaque and

anything but transparent when it comes to investigating the origin of the coronavirus.

Here in Canada, we have another investigation going on that concerns viruses, an investigation that concerns the shipment of Ebola and Henipavirus from the National Microbiology Lab in Winnipeg to the Wuhan Institute of Virology on March 31, 2019, just eight months before a global pandemic ostensibly began in the same city.

An investigation that concerned two Chinese scientists employed by this lab in Winnipeg resulted in their termination. Dr. Qiu and Dr. Cheng were terminated on January 20 of this year for—quote, unquote—policy breaches. Here, like in China, the Government of Canada is blocking our investigation into the transfers of these viruses to the Wuhan Institute of Virology and blocking our investigation into why Dr. Qiu and Dr. Cheng were terminated.

The parallel between these two situations is appalling. We live in a parliamentary democracy and we are facing the same impediments to our investigations as investigators are facing as they attempt to discover the origins of the COVID-19 pandemic in China.

Dr. Qiu and Dr. Cheng were escorted out of the lab by the RCMP, along with Chinese students, two years ago on July 5. In the months before they were escorted out, the Government of Canada replaced Dr. Qiu's computer at the lab and denied her permission for trips to China she applied for, but we still don't know why she was terminated.

Dr. Qiu made five trips to China in 2017 and 2018. She was invited to the Wuhan National Biosafety Laboratory of the Chinese Academy of Sciences twice a year for two years, for two weeks at a time. One of those trips was to train scientists and technicians at China's new level 4 virology lab in Wuhan, but we still don't know why these two scientists were terminated from the Government of Canada's lab in Winnipeg, because the Government of Canada is blocking us from getting this information, information that we ordered through a motion that we adopted on March 31 of this year.

Mr. Stewart, you say that you are bound by law. “Open and Accountable Government” is not the law; it is a document produced by the PMO and PCO at the start of this government. It is not the law. Paragraph 8(2)(c) of the Privacy Act is the law, and it says:

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

That's the section of the act that says where personal information may be disclosed.

We, as this committee, are a “body with jurisdiction to compel the production of information”. The motion we adopted on March 31 is an order to you to produce unredacted documents about “the transfer of Ebola and Henipah viruses to the Wuhan Institute of Virology” in China and to produce documents with respect to the termination of Dr. Qiu and Dr. Cheng.

You are not in compliance with the law as adopted by the Parliament of Canada, entitled the Privacy Act, under paragraph 8(2)(c), which expressly gives us the authority to compel the production of this personal information.

• (1850)

Mr. Stewart, what do you say to the fact that you're not complying with that section of the act?

Mr. Iain Stewart: Mr. Chair, my understanding is that I am complying with the Privacy Act and its requirements. I am not an expert in this area. I have taken expert advice in that regard. For this reason, we have legal counsel with us here today.

What I would say is that I believe I am upholding my obligations under this act of Parliament. In that spirit, I'm trying to provide as much information as I am able to do while protecting the privacy of the individuals involved in the matter at hand.

Thank you for the question, sir.

The Chair: Mr. Chong, that concludes your time.

We'll go on to Mr. Oliphant for six minutes.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you very much, Mr. Stewart. Thank you also for raising the issue of annex E of the "Open and Accountable Government" document, which I understand—

Ms. Lenore Zann (Cumberland—Colchester, Lib.): Mr. Chair—

The Chair: Mr. Oliphant, your microphone is not down.

Ms. Lenore Zann: That's it.

Mr. Robert Oliphant: I'm sorry. I was eating my dinner.

Thank you for your public service and thank you for working with this committee to find a solution to protect the privacy of individuals, which we want to do as parliamentarians—this is an act that we passed—but also for providing us with information so that we can better understand the situation at hand. We recognize that this is a balancing act.

Thank you for raising the operating document, "Open and Accountable Government". As Mr. Chong said, it may not have the force of law; however, it is an operating document that has been quite a rerouting from the previous Harper government, which actually did not want to do open and accountable government and sought various ways to thwart that. I speak of that very knowledgeably, as someone who was an opposition MP during those times. I understand that moment in history.

We are attempting to have an open and accountable government. At the same time, we have questions that we want answered.

You have raised the issue of being in compliance with the Privacy Act as public servants, which you are compelled to do. As you know, this committee is a committee of Parliament, and parliamentarians have certain rights and responsibilities as well. We're trying to square that off. I would like to know a little bit about the legal advice you got with respect to the redactions you put into the documents, which are quite real. We recognize that, and I find them

frustrating myself, even as a member of Parliament from the government benches.

Could you explain? You're very welcome to turn to legal counsel from the Department of Justice as well if you're not feeling comfortable. I'm very happy to hear either of you outline the criteria you used as public servants who are obligated to follow that law as well.

Mr. Iain Stewart: I think, as I've mentioned, the Privacy Act, but other considerations also pertain, such as national security considerations.

One of the interesting things about going through the materials that have been provided to the committee is the consistency. I don't think any of the redactions occurring in these materials provided to you vary from the history of the documents provided. In fact, there's a consistency in what's been able to be provided and not provided. In fact, some of the materials speak to that, as I think you will have seen from reviewing the documents, so I would say that we're following the normal limits that pertain in this area. It's protecting third party individuals' privacy. It's protecting national security considerations and, as much discussed in our deliberations with my time before this committee, of course the Privacy Act and the privacy of the two individuals. I think you see that reflected through all the materials that were provided, sir.

Thank you for the question.

• (1855)

Mr. Robert Oliphant: You mentioned in your remarks that there's also an ongoing police investigation by the RCMP. In doing this, did that enter into your decisions with respect to redactions? I know you mentioned we should ask some of these questions to the RCMP, but these documents came from the Public Health Agency of Canada, and I'm wondering about the role of a police investigation and whether it played a part.

Mr. Iain Stewart: We endeavoured to make sure that nothing that we were relating was connected to the RCMP investigation. We're not part of that process and we don't really have a line of sight into it. That's why, on the last occasion when I appeared, sir, I suggested it might be appropriate to raise that particular matter with the RCMP as opposed to us at the Public Health Agency, given our non-involvement in that activity.

Mr. Robert Oliphant: By aspersion, Mr. Chong raised issues with respect to COVID-19 and the pandemic that we are undergoing right now and this set of incidences. My great concern is obviously misinformation. People and the public are often prey to political motives and misinformation. I just want to know whether you have any sense of concern with respect to drawing together possibly totally unrelated activities as though there was a conspiracy at hand. I did note that Mr. Chong mentioned "Chinese" a number of times when he was referring to the two individuals. I'm just wondering if that conspiracy set of circumstances was of concern to you.

Mr. Iain Stewart: You will have noted in your review of the materials that none of them pertained to coronavirus or to research related to coronavirus. Here it's two other viruses, Henipavirus and Ebola.

I'm sorry; my time is over.

Mr. Robert Oliphant: Very good.

Thank you very much for that. I want to be very clear that this has nothing to do with coronavirus.

The Chair: Thank you, Mr. Oliphant. It's Mr. Oliphant's time that's over, actually.

[*Translation*]

Mr. Bergeron, you have the floor for six minutes.

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

I want to thank the witnesses for being here this evening.

Mr. Stewart, I want to thank you for providing the documents, which may not be as complete as we would have liked. We'll have the chance to talk about the documents this evening. I also want to thank you for the explanations that you've provided so far this evening, even though we may find them unsatisfactory.

In any case, on a personal level, I mainly want to know why, if the transfer of these viruses to Wuhan was done properly, the two scientists in question were terminated anyway. This evening, you clearly established—I think that this resolves part of the issue—that the transfer of these viruses to Wuhan isn't related to the termination of the scientists.

That said, we're still waiting for the reasons for these terminations. You seem to consider parliamentarians as mere individuals subject to the law under the Privacy Act, who can't be given information regarding citizens. However, as Mr. Chong pointed out, this act allows certain authorities to request and obtain documents and information.

I suspect that you would never have dared to turn over redacted documents or to refuse to respond to a court. However, in its own way, Parliament is a court. The Privacy Act, like all legislation in Canada, must be constitutional. It must comply with the provisions of the Canadian Constitution, which includes a specific provision called parliamentary privilege that often takes precedence over certain legal provisions. Based on this parliamentary privilege and the provisions of this act, we believe that we have the right to request these unredacted documents and answers to our questions.

Of course, parliamentarians aren't irresponsible. Parliamentarians understand that some personal information shouldn't be publicly disclosed, and that information shouldn't be publicly disclosed if it involves national security issues or criminal investigation matters. As a result, we gave you the option of sharing this information with us in camera, so that we don't disclose the information to the public.

Despite this option provided by parliamentarians, you chose not to respond to any of their requests. Of course, you provided a number of clarifications. However, you failed to provide unredacted documents and to answer the fundamental questions that parliamentarians have been asking since the beginning.

My next question is for Christian Roy.

What's your legal basis for believing that the Public Health Agency of Canada can refuse to respond to a request from parliamentarians in violation of the sections of the Privacy Act referred to by Mr. Chong and in violation of parliamentary privilege?

● (1900)

Mr. Christian Roy: Thank you for your question.

Basically, we recognize the jurisdiction of committees to request documents and to call witnesses. That said, in terms of paragraph 8(2)(c), we're talking about a jurisdiction to compel. There's a difference of opinion here. We don't recognize the committee's jurisdiction to compel in this area.

The fact remains that senior government officials still have obligations to the crown and to the rule of law. They must comply with the legislation passed by Parliament. They also have obligations to the people upon whom Parliament has conferred a right of privacy.

The position that President Stewart stated in his correspondence and in his opening remarks is consistent with the position put forward by senior officials and ministers for at least a decade. This isn't a new position.

In this respect, it basically comes down to whether the committee can ultimately compel the production of information as required by paragraph 8(2)(c).

Thank you.

The Chair: Thank you, Mr. Bergeron. Your time is up.

[*English*]

We'll go now to Mr. Harris, please, for six minutes.

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

Mr. Roy, you just explained the obligations by statute—for example, the Privacy Act—that senior public officials have with respect to making documents public. The advice that we have been given and the rulings of the previous Speakers of the House, which are constitutional in nature, provide that committees do have the right to obtain documents whether or not the Privacy Act speaks the way it does, and that anything within the control and knowledge of the executives is available to Parliament, with certain concomitant conventions or obligations on the other part.

You're speaking, I take it, in connection with the obligation of officials with respect to ATIP requests, with respect to privacy legislation and other legislation that might apply when making information available to the public. Am I right?

• (1905)

Mr. Christian Roy: I'm speaking in relation to the powers of committees as well.

Mr. Jack Harris: Perhaps, then, I can ask Mr. Dufresne to repeat what he told the committee with respect to interpretation of the powers and ability of our committee and Parliament itself to call for papers and documents in regard to the redactions we're seeing here.

Mr. Philippe Dufresne: Certainly. Thank you, Mr. Harris.

As indicated in previous appearances that I've made, the committee's powers to send for papers and records comes from section 18 of the Constitution. It comes from parliamentary privilege and gives the power to send for persons and papers. It is at a higher level than ordinary statutes, and Speaker Milliken in his ruling and the Supreme Court of Canada have recognized the primacy of Constitutional provisions, and in particular parliamentary privilege, and indeed the 2015 document cited today in terms of the government's policy refers to Speaker Milliken's decision in 2010.

It's the same authority that is pointed to, and that authority from Speaker Milliken makes it very clear, as does the authority in other Parliaments, that the constitutional authority of committees and of the House supersedes and is not limited by ordinary statutes like the Privacy Act or the Access to Information Act. These are important public policy considerations, but they do not limit. Speaker Milliken was explicit on the point that the statutes do not allow the government to unilaterally determine that something would be confidential.

It may well be that the House and committees will agree with the submissions, but at the end of the day, it is to the committees and ultimately to the House to decide.

Mr. Jack Harris: Would you explain what precautions this committee made within its motion calling for these papers to respect the convention to provide protection and ensure that information that ought not to be made public would not be made public, and that the committee members would have an opportunity, at the same time, to independently assess the validity of what we're being told, or the nature of it, or the consequences of what we are being told by the government?

Mr. Philippe Dufresne: Well, certainly.

Going back to the government document that was cited today, quoting from Speaker Milliken's ruling, the mention was that the committees or the House will often agree with the positions put forward by the government as to a basis for confidentiality. Indeed, the fact that committees have the power doesn't mean they have to exercise it in all cases. There are valid, important public policy considerations.

There are many tools that committees can take: looking at documents in camera, having only committee members have access to the information, having briefings done in a confidential matter, or having the proposed redactions reviewed by a third party, which could be my office.

In the case of the Afghan detainee case, in Speaker Milliken's ruling in 2010 there was the creation of a committee with parliamentarians, arbiters and judges. There was a process, but at the end of the day, the last word was for committees and the House.

The process here that was put forward was that my office would review the documents with the possibility of proposed redactions by the government and that an opinion could be given to the committee.

Mr. Jack Harris: In connection with that, sir, for example, in the 271 pages we've been given—I don't know how many of these pages have been given to somebody else; I guess I will ask that in the next round of Mr. Stewart—we have things like 12 pages, not relevant; eight pages, not relevant; three pages, Privacy Act; 11 pages that....

If there were matters that were irrelevant, I'm assuming we could rely on you. If you knew what we were looking for and there were 12 pages that had nothing to do with our inquiries, you could say, "Look, these pages are not relevant and they've said they're not relevant, and they're correct." We presumably then take your word for that as counsel to the Parliament.

That's a possibility as well. Is that correct?

• (1910)

The Chair: Thank you, Mr. Harris.

Mr. Philippe Dufresne: Yes.

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

We'll now go on to the second round.

We have Mr. Genuis for five minutes, please.

[*Translation*]

Mr. Stéphane Bergeron: Excuse me, Mr. Chair.

The Chair: Yes, Mr. Bergeron.

Mr. Stéphane Bergeron: I didn't hear Mr. Dufresne's response.

The Chair: He said yes.

Mr. Stéphane Bergeron: Thank you, Mr. Chair.

[*English*]

The Chair: Mr. Genuis, you have five minutes.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Mr. Chair.

I want to note at the outset that I think Mr. Chong's questions were manipulated by Mr. Oliphant to imply that he said something he had not said. I think Mr. Chong's points were quite clear, making an argument about how, in our system, we have the supremacy of Parliament, which means that we would expect that when there are investigations into important matters, there would be a greater level of transparency here.

Mr. Dufresne, thank you for your very clear comments about the fact that committees have Constitutional authority to send for documents. It has been upheld by the Supreme Court and by Speaker Milliken's rulings that there are important public policy considerations at play that committee members will take into consideration, and it's ultimately up to them to take those matters into consideration.

Mr. Roy, can you respond to this? If we're to believe your version of reality, that there's no ability for committees to compel documents, then what the hell happened with the Afghan detainee case? What's your interpretation of the events that took place in the Afghan detainee situation, if you don't believe there's a right to compel the production of documents?

Mr. Christian Roy: Thank you for the question.

Respectfully, the power to send for records is not absolute. That is the position that we're taking. It must be balanced and circumscribed by principles—

Mr. Garnett Genuis: Mr. Roy, I asked you specifically—

Mr. Christian Roy: —of the separation of powers.

Mr. Garnett Genuis: —about the Milliken ruling.

Is your position consistent with Speaker Milliken's ruling, in your view?

Mr. Christian Roy: The ruling ultimately, if I recall correctly, amounted to an order from the House.

Mr. Garnett Genuis: Is your position about the rights of committees consistent with Speaker Milliken's position on the same question?

Mr. Christian Roy: Our position is essentially that ultimately there are limits on the ability to produce documents as called for—

Mr. Garnett Genuis: Is that the same as Speaker Milliken's position?

The Chair: Mr. Oliphant, do you have a point of order? I see your hand up.

Mr. Robert Oliphant: I have a respectful point of order, Mr. Chair.

Before we get too far into the conversation, I would like Mr. Genuis to apologize for using inflammatory language, the word "hell". I don't think that is parliamentary language. The rules at committee are the same as those of Parliament. I think it is inappropriate, especially toward a public servant who has come to this committee as a witness.

The Chair: Thank you, Mr. Oliphant.

Mr. Genuis, I'm afraid Mr. Oliphant is correct. I would ask you to—

Mr. Garnett Genuis: I happily withdraw the remark.

The Chair: Thank you very much.

Mr. Garnett Genuis: Mr. Roy, is your position consistent with Speaker Milliken's ruling?

Mr. Christian Roy: With respect, I don't think we can square the two. My recollection of the Milliken ruling is that ultimately he

asked that parties discuss the matter and that they come up with a solution.

Mr. Garnett Genuis: Okay, that's very honest of you. You're telling this committee that your position is different from Speaker Milliken's position.

Do you believe that Speaker Milliken had the authority to make that ruling? Do you believe that his ruling has force of law?

Mr. Christian Roy: I do believe that Speaker Milliken had the authority to make the ruling and that it applied to the legislature, in essence. There is a separation between the executive and the legislature. These rulings—it's the same with decisions made by committees—have an impact within the bounds of the separation of powers.

Mr. Garnett Genuis: The Speaker ruled, though, that parliamentary committees have a right to send for documents. You said that's not your position. You don't believe they have that right.

Mr. Christian Roy: Right.

Mr. Garnett Genuis: You've agreed that your position is different from the Speaker's ruling, but you've also said that the Speaker had the lawful authority to make that ruling on the rights of committees.

I guess what I don't understand is how you are taking a position that is different from the position of the lawful authority in this case, but you presume to say that your position is still the legally correct position.

• (1915)

Mr. Christian Roy: As I said, it's hard to reconcile the two. My recollection is that the facts were different and that the order issued was different. The ruling was different in that ultimately he expected the parties would agree. Ultimately, they did come up with a mechanism that was—

Mr. Garnett Genuis: Yes, that's what happened ultimately.

Mr. Roy, I think you've just defeated your own argument. You've acknowledged that your position is inconsistent with the Speaker's ruling and that the Speaker had the right to make the ruling, but you still wish to persist in disagreeing with it.

Mr. Stewart, are you at all embarrassed to be taking this advice over Mr. Dufresne's advice in your decision not to provide these documents to the committee?

Mr. Iain Stewart: Mr. Speaker, just to clarify, is the question whether I am embarrassed?

Mr. Garnett Genuis: Yes.

Mr. Iain Stewart: Mr. Speaker, with all respect, no, I am not embarrassed. I think legal counsel is saying the cases are different and that the equation you're making doesn't add up.

Mr. Garnett Genuis: I look forward to following up.

Thank you, Mr. Chair.

The Chair: Thank you.

I'll remind witnesses that I'm the chair, not the Speaker.

Now we'll go to Ms. Zann for five minutes.

Ms. Lenore Zann: Thank you very much, Chair. I appreciate that.

Listen, I have come across a number of times when former MP Bill Casey had asked for documents and they were redacted. He took great offence to this as a parliamentarian, and brought it up several times in the public eye and the media, asking why a member of Parliament can't receive documents that are unredacted.

Could the Public Health Agency please forward unredacted documents to our parliamentary law clerk and request that he review them and ascertain the fairness? I think that would be a very good step forward. What would you say to that?

Mr. Iain Stewart: My understanding is that my providing materials to you is a disclosure. Whether I provide them to the law clerk or to you, I'm making a disclosure. That's where I run afoul of the Privacy Act.

We have done all that we can to provide the materials that were consistent with what we understood to be our legal obligations. I think if you review the package, you'll find that in fact much content is there and that it's quite repetitive and consistent content over time.

Ms. Lenore Zann: No problem. Thank you very much.

Chair, might I make a motion that PHAC forwards unredacted documents to the parliamentary law clerk and requests him to review them to ascertain the fairness in them?

The Chair: Yes, you can make that motion.

Ms. Lenore Zann: I would like to make that motion, please, Chair.

Mr. John Williamson (New Brunswick Southwest, CPC): I have a point of order.

The Chair: Go ahead, Mr. Williamson.

Mr. John Williamson: Just as a clarification from the chair, or perhaps even from MP Zann, is this motion substantially different from the motion this committee had previously passed asking the Health Agency to do just that?

Ms. Lenore Zann: Since we have not received the documents unredacted, I am asking that the PHAC send them to the clerk for him to review.

The Chair: Madam Clerk, do you have the original motion? Could you read it to us, please?

I have stopped the time, by the way.

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

What I have here is essentially Ms. Zann asking the committee to reject the reasons that were provided from PHAC and to uphold the order for the production of documents, essentially meaning that it's a new motion that the unredacted documents be provided to the law clerk—

The Chair: Sorry. What I meant was the original motion, the previous motion that we passed that led to the order.

The Clerk: Yes. Give me just one moment here.

It would be the motion that was adopted by this committee on March 31, 2021.

Do you want me to read the whole thing?

• (1920)

The Chair: Yes, please.

The Clerk: I have:

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

(a) these documents shall be deposited with the Law Clerk and Parliamentary Counsel, in an unredacted form, within 20 days of the adoption of this order;

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

(c) should the Public Health Agency of Canada not provide documents in their unredacted form within 20 days, the President of the Public Health Agency of Canada and the Acting Vice-President, National Microbiology Laboratory, Infectious Disease Prevention and Control Branch at the Public Health Agency of Canada be scheduled to appear for three hours before the committee, within 27 days of this motion passing, to explain why the documents were not provided.

The Chair: Thank you.

Mr. Oliphant, is your hand raised on a point of order related to this argument?

Mr. Robert Oliphant: Yes, Mr. Chair. I'm not sure it's a point of order.

You have ruled that the motion is acceptable, which I understand, because the member had the floor and is able to make a motion. I understand that the motion is relevant to the discussion, so I understand that you would rule in favour.

I think you might want to canvass the other members of the committee. We could move right into that motion, but there may be some really important questions that the other members who have only had one round so far want to raise before we get to that motion.

I think the motion is predicated on the disappointment that Ms. Zann has that we have not had the unredacted documents and is offering a solution, which I think Mr. Harris did hint at towards the end of his questioning when he asked the parliamentary law clerk if he would avail himself to do that kind of work, and he said yes.

I want your thought about whether or not we're now into this debate on the motion. I think it is a good motion and I will be happy to support it, but I also don't want it to cut off Monsieur Bergeron or Mr. Harris or the other members of the committee who may want to ask some questions before we get into it.

I just wanted to figure out how you want to handle that. You're the chair.

The Chair: Thank you, Mr. Oliphant.

Mr. Garnett Genuis: I have a point of order.

The Chair: Mr. Genuis, I'll get to you in a moment, if you don't mind.

I asked the clerk to read the motion so that I could assess Mr. Williamson's point of order and his objection that this was substantially, or least in part, the same as the motion already passed.

If you don't mind, Mr. Genuis, I'd like to ask the clerk about the provision regarding a motion that is substantially or partially the same as the previous motion.

Madam Clerk, what can you tell me about that?

The Clerk: Thank you, Mr. Chair.

In these circumstances, I would say that moving a motion to ask for the same documents again would be essentially the same as rejecting the reasons provided by the Public Health Agency to not provide the documents, essentially upholding the committee's decision from March 31.

The Chair: Thank you.

Go ahead, Mr. Genuis.

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

I would just like to know the specific text of Ms. Zann's motion. We need that information in order to vote on it. We may wish to propose amendments to it as well. She moved the motion and we're debating the motion, unless Mr. Oliphant proposes to do something else with it, which would have to be considered.

I'd just like to know what the motion is. Then I'd probably be interested in coming in on it on debate.

• (1925)

The Chair: Thank you.

Madam Clerk, do you have the motion? Would you like to read it? Is that why you're raising your hand?

The Clerk: I just wanted to let you know that Mr. Chong raised his hand in the room as well.

The Chair: Yes.

The Clerk: The motion I have from Ms. Zann is as follows:

That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel for him to review and ascertain the fairness of them.

The Chair: Thank you.

Mr. Genuis, your hand is still up. Is that on a point of order?

Mr. Garnett Genuis: That would be on debate.

The Chair: Okay. I have Mr. Chong on debate. Then I have Mr. Genuis and Mr. Oliphant.

Go ahead, Mr. Chong.

Hon. Michael Chong: Thank you, Mr. Chair.

I support the motion and I will be voting for it.

Thank you.

The Chair: Thank you very much.

Mr. Genuis is next.

Mr. Garnett Genuis: Thank you, Chair.

I'd like to propose an amendment to the motion. The amended motion would read as follows:

That the unredacted documents from the Public Health Agency be provided to the Law Clerk and Parliamentary Counsel within 7 days, and should the documents not be provided, that the committee report the following to the House:

Your committee recommends that an Order of the House do issue for all information and documents, in the care, custody or control of the Public Health Agency of Canada and subsidiary organizations, respecting the transfer of Ebola and Henipah viruses to the Wuhan Institute of Virology in March 2019 and the subsequent revocation of security clearances for, and termination of the employment of, Dr. Xiangguo Qiu and Keding Cheng, provided that:

(a) these documents be deposited, in both official languages, with the Law Clerk and Parliamentary Counsel no later than two weeks following the House's concurrence in this recommendation;

(b) the Law Clerk and Parliamentary Counsel remove information which could reasonably be expected to compromise national security or reveal details of an ongoing criminal investigation, other than the existence of an investigation; and

(c) these documents be laid upon the Table by the Speaker, at the earliest opportunity, once vetted, and referred to your Committee

The Chair: Thank you, Mr. Genuis.

Mr. Garnett Genuis: Can I now speak to that?

The Chair: The clerk—

Mr. Garnett Genuis: Maybe we want to get text language clarified. Then I'd like to make some comments about it.

The Chair: That was a lot for the clerk to write down.

Mr. Garnett Genuis: Okay.

The Chair: She may wish to confirm some of that wording.

The Clerk: Could you please repeat it, or perhaps send me a copy by email? That would be great as well.

Mr. Garnett Genuis: I would be happy to do both.

Mr. Chair, I'm in your hands.

The Chair: If you send it by email, then I'll let you carry on with debate.

Mr. Garnett Genuis: Sure.

The purpose of my motion, Mr. Speaker and colleagues—

The Chair: I'm the chair.

Mr. Garnett Genuis: Pardon me, Mr. Chair.

I greatly respect and appreciate the effort put forward by Ms. Zann. I do note that adopting a motion without a timeline or a consequence would seem to me to be not as strong as the action the committee has already taken. I would suggest that we add a clear timeline underlining our expectation to receive the documents. If we don't receive the documents, we could have Mr. Stewart back here again, but that would seem to me at a certain point to be banging our heads against the wall. I think we need to report this matter to the House.

Although I completely disagree with Mr. Roy's interpretation of the law here, I got the impression from his comments that he might be more likely to advise compliance if the House ordered the production of the documents. My amendment says that if the documents are not provided, this matter will be referred to the House. Then it is up to the House to request the production of those documents, if they wish. That might carry more weight. I think many of the same issues apply, but that might carry more weight in the eyes of Mr. Roy and Mr. Stewart.

Rather than just repeating ourselves, we should position ourselves to respond if a repeat of the motion is not complied with, and hence, I think, the importance of the amendment.

The Chair: Thank you, Mr. Genuis.

Go ahead, Mr. Oliphant.

Mr. Robert Oliphant: Thank you.

I had intended to speak to the motion, but I am happy to speak to the amendment.

I support the idea that the motion isn't complete, but I think the amendment is presupposing something that we don't necessarily need to presuppose at this time. I don't think that's about consequences; I think that's about tying the committee's hands too early. We want to take time to do this well.

I won't be supporting the amendment as is, even though I'm not totally against it. What I think I would do if we were to defeat the amendment is amend the motion differently to very explicitly ask for the law clerk to review the documents, which I think was in Mr. Harris' mind, with an eye as to the appropriateness or validity of the redactions and to advise the committee on that.

The law clerk could have two sets of documents, one redacted and one unredacted. He's our lawyer, our legal adviser. He could look at them, review them and give a report to us, and we could then bring him back. At that point, if he advises us that he thinks the documents are inappropriately or overly redacted, we could move a motion similar to what Mr. Genuis would move. I think it's a motion I've heard before. It could make sense, but it presupposes an outcome from an event that hasn't taken place yet.

I don't know whether seven days is appropriate, but I don't see anything wrong with that. I can't really give notice for an amendment, but I'll signal to my colleagues on the committee that I think we should defeat the amendment, as it is premature. It changes the nature of this quite a bit and does something that I think the committee might want to do or might not want to do. Let's take our time and do this one step at a time.

I think that is in the spirit of where we were on the first motion. We now have a fuller set of documents and we brought back the agency. I'm a little nervous that they haven't had full time to explain things, because I think very important questions could be asked by members, but that's okay; we are where we are. Still, let's take our time.

I would advise again—and I'm sorry that I'm repeating myself a third time—that it would be important to defeat the amendment. However, let's very clearly ask the law clerk to do a task for us and

advise us. Then we can entertain the kind of motion that Mr. Genuis has in mind.

● (1930)

The Chair: Thank you, Mr. Oliphant.

Go ahead, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Mr. Chair, I have the unpleasant feeling that I've been robbed of my time. Nevertheless, I'll speak about the amendment moved by Mr. Genuis.

First, here's what I would have wanted to say, if I had been able to speak in the second round. For their own reasons, the people at the Public Health Agency of Canada chose not to publicly disclose the information requested. The committee gave them the option of disclosing this information to the law clerk and parliamentary counsel for the House of Commons, so that he could advise us on how to handle the information.

As I said earlier, parliamentarians aren't irresponsible. They won't seek to publicly disclose any personal information, or information that could affect national security, or information related to criminal investigations.

As a result, I believe that the initial plan was to ask the Public Health Agency of Canada to provide the unredacted documents through the law clerk and parliamentary counsel, who would advise us on how to proceed. That's how I would interpret the motion that the clerk referred to a few moments ago.

Surprisingly, the Public Health Agency of Canada didn't reach out to the committee members to share information that may not have been released to the public. It ultimately treated the parliamentary committee like any other individual subject to the law who requested information from the agency.

Mr. Chair, I'm afraid that we're clearly headed towards an escalation, and the Public Health Agency of Canada won't come out on top. That's what I wanted to say earlier. I thought that the agency must understand that it has a vested interest in working with the committee, with parliamentarians.

As I said, we're reasonable people. I don't believe that any of us want to misuse or inappropriately use the documents or information provided in a way that violates the provisions of the Privacy Act, jeopardizes national security or undermines criminal investigations. As a result, we would handle the information with the care that the circumstances require.

I can see that the Public Health Agency of Canada, on the advice of Mr. Roy, keeps on saying that the committee doesn't have the jurisdiction to obtain this information, these documents.

This goes against the advice provided again this evening by the law clerk and parliamentary counsel, who obviously referred to the constitutional provisions in this area and to the ruling of both the Supreme Court and Speaker Milliken. Nevertheless, Mr. Roy keeps on saying that the committee doesn't have this jurisdiction.

My concerns are becoming a reality. We're heading towards an escalation. I don't think that the Public Health Agency of Canada would benefit from this escalation.

That said, I agree with Mr. Genius that Ms. Zann's motion, which I think was very well intentioned, didn't go far enough. It was much less far-reaching than the earlier motion that we passed. Not only was there no timeline, but there were no consequences.

To pick up on Mr. Oliphant's points, I believe that Mr. Oliphant's proposal was already included in the motion that we passed, namely, that if the agency were to refuse to provide the documents, Mr. Stewart and his officials would be called by this committee. This is now taking place.

- (1935)

There's no point in repeating this for the umpteenth time. We've clearly reached a dead end. The Public Health Agency of Canada, on the advice of Mr. Roy, is deliberately refusing to provide the information requested by the committee, either through the law clerk and parliamentary counsel or through other means.

This pains me. I really wish that we could have found an acceptable compromise with the officials from the Public Health Agency of Canada and with Mr. Roy. As I've said repeatedly, we're reasonable people. There's no reason why parliamentarians would want to overstep their bounds and publicly release information in a way that violates the provisions of the Privacy Act, jeopardizes national security or undermines police investigations.

However, the Public Health Agency of Canada and Mr. Roy don't have the authority to determine whether they must produce these documents. This obligation is legal—it exists—and, in light of this deliberate and repeated refusal, I have no choice but to announce that I'll vote in favour of the amendment moved by Mr. Genius.

The Chair: Thank you, Mr. Bergeron.

[*English*]

Mr. Harris, you are next, please.

Mr. Jack Harris: Thank you, Chair.

I'm happy to join in this debate on the motion by Ms. Zann and the amendment by Mr. Genius.

First of all, I suppose I'm a little disappointed that we didn't get to ask more questions about the nature of the documents and what other documents there were that were already made public—or whether these were made public already—so we would know a little bit more about the nature of what else is there, but I guess we're already into this particular debate now.

I will say this. I believe that Mr. Waugh either misrepresented or misapprehends—and I say this with great respect—the ruling of Speaker Milliken. I say this from some experience, because I was

on the Afghanistan committee that requested these documents under parliamentary procedure. The request was turned down and the matter went to the House. There was a lengthy debate in the House, which I participated in. The ruling was very clear that the House of Commons and the committees were entitled to these documents. Whatever documents were available, the committees were entitled to them, and if the committees couldn't get them, the House would be able to make an order.

The only distinction was one that we've provided for here: Speaker Milliken said that he would delay making an order until the parties in the House had an opportunity to determine the measures they might wish to take to protect the public interest with respect to the release of the documents, because these were matters of international relations that involved potential breaches of the Geneva Convention and very serious matters of breaches of international law.

What happened was that a committee was formed—I was a part of the committee—to determine what the nature of the mechanisms would be. The committee, in the majority—and I wasn't a part of the majority—decided on a particular route to go and presented it in a report to the Speaker. The Parliament in majority—it was a minority government—supported a particular method of dealing with the documents, and the Speaker said that he would then implement it.

In our wisdom, or lack thereof—depending on what ultimate ruling might be made—we have provided for that in our consideration of the request for the documents. We knew we were entitled to the documents. We had advice from Mr. Dufresne as to what the rules are. We went through the process and got proper legal advice from the parliamentary counsel. That advice was consistent with the ruling of Speaker Milliken, which was a very seminal ruling, and in fact is probably the leading case on that subject in the Westminster parliamentary democracies.

We provided for that in paragraph (b) of our ruling, saying that the law clerk shall “discuss with the committee, in an in camera meeting, information contained” in the documents and look at the ones that “in his opinion, might reasonably be expected to compromise national security or reveal details of an ongoing investigation”, etc., so that the committee then may determine how to maintain the public interest in keeping the matters private.

That was the step that happened after the Speaker said that Parliament was entitled to these documents. We have taken that step.

If Mr. Waugh decided that he wanted to engage in a discussion with the committee as to what measures we proposed and whether he was satisfied with them, that would have been a different matter. What Mr. Waugh was essentially saying was, “No, you don't have those powers. You're not entitled to these documents.” That's not what the ruling said.

We really don't have much choice at this point but to find out whether or not the ruling of Speaker Milliken is going to continue to be upheld. This ruling in fact laid the groundwork for allowing committees to do their work in Parliament and follow the convention that.... This convention wasn't invented by the House of the Parliament of Canada. It's been used in other legislatures and parliaments elsewhere in the world to ensure that Parliament has its rights to access these documents but that Parliament will undertake to find ways of ensuring the public interest is protected.

• (1940)

That's what's before us now, and I think Ms. Zann's motion was quite in order. I haven't seen the written amendment, so before we would even vote on it or choose the wording or decide whether to amend it, I think we should all have a copy of it so we can look at it ourselves.

I think it is incumbent upon us not to let this matter drop and say, "Thank you very much, Mr. Roy; we'll accept your argument", because we don't agree with that argument. Unless Mr. Dufresne tells us that we're going down the wrong road here, I think we must proceed to obtain the opinion of the Speaker of the House for starters, and the House itself, to be able to determine what documents we are going to receive.

It is a fundamental constitutional principle that has been clearly stated by Mr. Dufresne, and if the government or the civil servants in this case—I don't know who's making the decision or whether they're making the decision themselves or on instructions from someone else—decide that this is going to be an impasse, then we have no other choice, no other course of action open to us, except to proceed. There may be further discussions about the best way of protecting the public interest, but that's a discussion that's taken on the basis that we are entitled, as members of Parliament, under the parliamentary privilege rules, to have access to these documents.

If we could have a copy of the documents and have a further opportunity to discuss whether this is the exact.... As Mr. Oliphant says, there may be another route to go, other than the specifics of this motion, but I think the general thrust of the amendment should be followed, and we should move further than we've gone so far.

• (1945)

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

Before I go to Ms. Zann, Madam Clerk, you've indicated there may be an issue you wanted to mention in relation to the motion to amend.

The Clerk: Yes. Thank you, Chair.

I received the motion. Thank you very much. It's only in English, so I cannot share it with the members right away, but I did send a copy to the interpreters. I'm wondering if maybe Mr. Genuis can repeat, and we can have it in both official languages through interpretation.

I do have a question. Is the amendment to recommend that the House order the documents, essentially? Mr. Genuis, there is another option, and that would be raising a question of privilege and then reporting that to the House. A question of privilege follows a very specific procedure in committee, and I do have a draft report that is

ready in both official languages if members wish to have a copy of it. I try to be ready for everything. It's really up to the members whether they want to recommend that the House adopt an order for the production of documents or whether they want to raise a question of privilege and report it to the House that way.

The Chair: Thank you very much, Madam Clerk.

Mr. Garnett Genuis: I have a point of order.

The Chair: Go ahead, Mr. Genuis, on a point of order.

Mr. Garnett Genuis: Could I just quickly clarify my motion by responding to Madam Clerk?

First, I just sent you an email with the French version, so hopefully that version allows the motion to be distributed.

Second, I was very intentional in this amendment in not raising the question of the privileges of the committee. I understand that questions of privilege have different implications for the House and that is a further option that the committee has before us. I would propose, if it's agreeable, given that you've done the work in preparing that draft report, that you do distribute it to members so we can have it for our consideration, but that is not the amendment I'm proposing.

The amendment I'm proposing—and you noted this in your comments—would say that if the documents are not provided within seven days, that a report be sent to the House, which if concurred in would amount to a House order for the production of the documents. It would still, at that point, not be a privilege issue; it would be a House order.

Madam Clerk, correct me if I'm wrong, but I have intentionally stopped short of taking this to the furthest possible extreme.

The Chair: The clerk is nodding in agreement, it appears.

I'll go to Ms. Zann, now.

Ms. Lenore Zann: Thank you, Mr. Chair.

Regarding my original motion, I had said at the end of it something that Mr. Oliphant repeated, and that was to request the Parliamentary law clerk to review the documents and ascertain the fairness of them. That was actually in my motion. It read:

That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel for him to review and ascertain the fairness of them.

Mr. Chair, are we going to vote on that motion? I'm certainly willing to listen to more questions and ask more questions if people would prefer me to take my motion off the floor. I can do that too.

• (1950)

The Chair: We are presently debating an amendment to your motion, Ms. Zann, and that amendment is on the floor. Prior to that, your motion was on the floor.

As I understand it, that motion now belongs to the committee, so an individual who has moved a motion can't retract the motion. The committee has possession of the motion once it's been moved.

Ms. Lenore Zann: Thank you.

Could the clerk make sure the last part is there?

The Chair: I think the clerk may have that wording, but perhaps—

Ms. Lenore Zann: When she repeated it, it wasn't part of it.

The Chair: Perhaps you could text or email her to make sure the wording is right.

Ms. Lenore Zann: I don't know if I have her email.

The Chair: Madam Clerk, do you have the wording as Ms. Zann has stated it?

The Clerk: What I read previously was, "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel."

I do have another part, "to review and ascertain", and then I am missing additional words.

Ms. Lenore Zann: They are "the fairness of them".

The Chair: The motion is before us.

Ms. Lenore Zann: Thank you.

The Chair: The amendment of that motion is also before us, and we are debating the latter at the moment.

Mr. John Williamson: I have a point of order, Mr. Chair.

The Chair: Just a minute, Mr. Williamson. I am talking about a point of order at the moment.

Either of those could be withdrawn, but only with the consent of the committee.

I recognize Mr. Williamson on a point of order.

Mr. John Williamson: I thought we were working off the motion that was put by MP Zann, which the clerk read, and then MP Genuis made an amendment to modify it, and that is the debate.

It seems that MP Zann has now come in and added other words. I don't know how that impacts Garnett's amendment, but I want to make sure we're not amending the motion while discussing the amendment to it.

The Chair: As I see it, Ms. Zann has indicated that the clerk didn't get all the wording of the motion she made.

Mr. John Williamson: I have a point of order on that. The motion, as she put it forward, was read by the clerk, and that was her time to correct it. It seems odd that we're having it amended now. I hear what you're saying, but if she is permitted to do that, then MP Genuis should be allowed to tweak his.

I'm not sure that having the law clerk judge fairness is in his purview. That is a question, I think, for legislatures. He is here to provide us legal counsel, so I worry that the term "fairness" is modifying her motion in a way that Garnett did not respond to, and he should be given the ability to do so if he thinks that is necessary.

The Chair: Thank you, Mr. Williamson.

Madam Clerk, could you read the motion as Ms. Zann is indicating she first made it, and then read the motion to amend, please?

The Clerk: Yes, absolutely.

The first motion moved by Ms. Zann was, "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel."

It's very possible that I missed the last part, but that was the version I had.

I have the amendment moved by Mr. Genuis, which I sent to all of you by email maybe two minutes ago. I can read that as well.

The Chair: Yes, please.

[*Translation*]

The Clerk: I'll read the amendment:

That the motion be amended by adding the words "within 7 days" after the words "Parliamentary Counsel" and the words "And should the documents not be provided, that the committee report the following to the House: Your committee recommends that an Order of the House do issue for all information and documents, in the care, custody or control of the Public Health Agency of Canada and subsidiary organizations, respecting the transfer of Ebola and Henipah viruses to the Wuhan Institute of Virology in March 2019 and the subsequent revocation of security clearances for, and termination of the employment of, Dr. Xiangguo Qiu and Keding Cheng, provided that: (a) these documents be deposited, in both official languages, with the Law Clerk and Parliamentary Counsel no later than two weeks following the House's concurrence in this recommendation; (b) the Law Clerk and Parliamentary Counsel remove information which could reasonably be expected to compromise national security or reveal details of an ongoing criminal investigation, other than the existence of an investigation; and (c) these documents be laid upon the Table by the Speaker, at the next earliest opportunity, once vetted, and referred to your Committee" after the words "ascertain the fairness of them".

• (1955)

The Chair: Thank you, Madam Clerk.

[*English*]

As I see it, Ms. Zann proposed her original motion. Her wording would be on the record of the committee. She's now giving us the wording to ensure it's correct. However, what's before us is a motion to amend. Once that motion to amend is dealt with, we're back to the original motion, which itself can of course be further amended. If some of this wording is not acceptable, that would be one way of dealing with the matter.

I still have Ms. Zann's hand up. I have Mr. Oliphant and Mr. Harris. I don't know if any are on the point of order.

Go ahead, Mr. Oliphant, on the point of order.

Mr. Robert Oliphant: No, it's on the amendment.

The Chair: Okay.

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

I understand what you've ruled in respect to Ms. Zann's point. I just wonder if the additional text that had been missed could be reread so we all can make note of it, and then we can proceed.

The Chair: Go ahead, Madam Clerk.

The Clerk: The additional text would be "to review and ascertain the fairness of them", speaking of the redactions that were made.

The Chair: It's "to review and ascertain". Thank you very much.

Ms. Zann, your hand is still up. Do you wish to speak on debate?

Ms. Lenore Zann: Yes. I just want to reassure the committee that if you play back the tape, you will hear me say these words at the very beginning, when I first suggested this motion.

Thank you.

The Chair: Thank you.

I have Mr. Oliphant and then Mr. Harris.

Mr. Robert Oliphant: Okay, I'm getting somewhere here. I think it was helpful for Mr. Genuis to explain his amendment a bit more fully. He may be surprised, but I don't hate it. I think there's something helpful in it. However, I still think it's premature.

Because we have Mr. Stewart here today, I'd like to engage him a bit on this. We have heard from his lawyer at the Department of Justice, but we haven't been able to engage with the Public Health Agency to see if we can come to some agreement with it about what we could promise to do or undertake to get the information we want.

I am going to be very clear, and this is going to be one of those awful Rob Oliphant moments.

Even though we have many lawyers in the room, lawyers are not always right. Department of Justice lawyers are particularly, in my mind, not always right. They were beaten at the Supreme Court of Canada on the genetic discrimination law, which they fought all the way through, so I have learned to now question our Department of Justice lawyers. This has happened more than once. Department of Justice lawyers advised CSIS with respect to retention of data and information. When I chaired the public safety committee, I was horrified that for 10 years the Department of Justice had advised CSIS with respect to retaining information.

I say that to caution the Public Health Agency of Canada to get a second opinion. It's full of doctors. You need a second opinion, because I think the justice department is not giving you the best advice. I know that is very difficult, and I am on the government side, but I am concerned.

This follows up on what Mr. Bergeron said. We value the public service of the Public Health Agency of Canada. We want to work with you in a way that gets us the information we want and assures you that we will maintain the integrity of that information. Maybe we could do it the way Ms. Zann has suggested with respect to having our lawyer review it first. There may be another option you can come up with that gets us out of this situation without it being as big a deal as it's becoming.

If it gets there, I will support Mr. Genuis in taking it to the House and affirming that. I will absolutely do that. However, I think there has to be some give-and-take in this discussion.

You're here and you have counsel. However, your counsel has drawn a line in the sand that I disagree with. I don't think it stands up to our understanding of not only our constitutional right but also of our responsibility as parliamentarians. We have a responsibility, because ultimately there's a supremacy of Parliament over the other branches of government. Ultimately, that's it.

I'm wondering how we can get ourselves out of this kind of a motion about this and that and find a way to say, "What would it take?" If we can't, I get it. If there's nothing we can do to assuage your concerns about privacy and your integrity as the public service, given the laws that you fall under, I get it. Then we'll go with Mr. Genuis' route and go to the House to see where that leads us.

I'm just trying to find a more constructive way to get us into this and get us out of it so that we have the information we need to fulfill our responsibility and you have the assurance that you aren't breaking laws and that your integrity is intact. We don't want to do otherwise. You're an important agency under a huge stress at this time.

Also, let's be very clear: As parliamentarians, we know that [*Technical difficulty—Editor*], and I've worked with the Public Health Agency in the past. You don't know this, but I got grants from them. That was in my previous life at the Asthma Society of Canada.

● (2000)

We know you're busy all the time, and you now have a pandemic. You are hugely busy. We don't want to cause more problems. We want to find a solution and do our work. Sometimes with parliamentary procedure, following the rules takes us far down into these motions when we could just stop and try to work this out.

To repeat, if there's nothing we can do to assuage your worry, we'll have to go down the route of reporting to the House, and I will support Mr. Genuis' amendment to the motion.

I don't know how we do this in a procedural way, Mr. Chair, but can we find some way for a non-committee member to talk during a debate on a motion that was moved when we were still questioning the witnesses? That's the awkward part. I think that with unanimous consent we could have Mr. Stewart respond, even though he's not a member of the committee, but that's up to you.

The Chair: Thank you very much, Mr. Oliphant.

I have Mr. Harris next, and then I can ask if members wish to hear Mr. Stewart's response, unless Mr. Harris wishes me to do that first.

Mr. Jack Harris: No. I appreciate Mr. Oliphant's comments and I understand that there are various ways to go.

We're obviously looking to find out the truth of the matter so that we can determine whether we can do our duty and fulfill our obligation, as Mr. Oliphant pointed out, to make a determination of whether there's a matter of sufficient public interest for this committee to go further.

We're talking about the amendment. With regard to what Mr. Stewart may think of this turn of events, he may think nothing of it and just rely on the legal advice he's been given. I agree with Ms. Zann, by the way, as to what her original motion was, but the amendment that Mr. Genuis has made suggests a somewhat different procedure than what our committee originally decided on in terms of how to handle this matter. As far as giving the documents to the law clerk goes, I think it's the same.

Then there's this significant difference between what Mr. Genuis' amendment proposes and what's in part (b) of our motion.

In our original motion, it says that the law clerk will get the unredacted documents. Then the law clerk and parliamentary council should:

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

In other words, acting on the advice of the parliamentary law clerk, with the knowledge of what's in the documents and what kind of investigation it is, etc., the decision of what's to be made public and what's not is in the hands of the committee.

In the case of Mr. Genuis' amendment, the documents would be deposited with the law clerk no later than two weeks, etc. The law clerk and the parliamentary council shall remove information that could "reasonably be expected to compromise national security, or reveal details of an ongoing criminal investigation other than the existence of...", etc. Then these documents are to be laid on the table of the House by the Speaker at the next opportunity after they've vetted, I guess, and referred to the committee.

That puts the law clerk in the position of being a judge of what is.... It's his opinion. He decides and take the documents away. That takes away the decision of the committee as to what is relevant or what is being done and puts it in the hands of the clerk.

That may be more acceptable to the committee, and it's up to the committee to accept this approach. I prefer, in fact, the original wording of our committee as a way to go, which is that we have someone who receives the documents initially. They are kept in secret and in private. We receive advice on how to handle them and we govern ourselves accordingly. That's fine with me. That's the proper way to go.

The other procedure is a little bit more bureaucratic in one sense: It turns the law clerk into a judge, which he may not wish to be, in fact. That's a different matter.

I think that's worth knowing. It's the reason that I would ask Mr. Genuis to explain why he chose that method instead of asking the House of Commons to determine that our procedure in fact be followed. That's a point that I wanted to make.

I want to go back to what Mr. Oliphant was saying. I'm not sure we're in a position to negotiate in public with Mr. Stewart as to what would be acceptable to him. It doesn't seem to me that we have all the tools at our disposal to be able to do that tonight at this meeting. I think it would be worth hearing whether or not there has been some decision made in the bowels of the Public Health Agency or the government that this matter is black and white as far as they are concerned. Are they going to go to the wall on this issue, or is there potential for further discussion with the Public Health Agency of Canada as to how to get to the bottom of this?

• (2005)

In essence, we don't know what's going on. We shouldn't be going on a fishing expedition, but we should have some better knowledge of what is in these other documents and what is going on that is being kept from us. With that, we can determine whether it's not a matter that we have any interest in or whether it's a serious matter that deserves further investigation, one that the committee has an obligation to look further into by going the distance and making sure that all of those documents are made available to us.

In the absence of any of that, we really don't have much choice but to proceed further.

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

Mr. Genuis is next.

• (2010)

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

First, to respond to Mr. Oliphant's comments, I think it's important to underline that Mr. Stewart and the Public Health Agency retain many off-ramps after this motion with the amendment passes, if it passes.

This motion calls for the production of documents within seven days. Of course, the easiest off-ramp would be for the Public Health Agency to then provide the documents; then there's no report to the House.

If they wish to pursue a compromise proposal, they could certainly bring that to members, and through members to the House; and the House could decide not to proceed with a concurrence motion, because a request by the House for documents only takes effect if it is concurred in by the House, which is far from an automatic process.

There are other steps available in the next seven days and prior to a prospective concurrence. Seven days from now is a break week. Any concurrence couldn't possibly happen until the following week.

I would suggest that this motion puts in place a series of initial steps that can be taken, but it doesn't oblige the taking of those steps and it leaves the door open for compromise.

My suggestion would be very much, I think, in the spirit of Mr. Oliphant's comments: Let's adopt the amendment and the motion and let's encourage PHAC to take those off-ramps, but note that we have a path laid out if they choose not to.

Mr. Harris, rather than give you my motivations for wording it the way I did, let me just say I'm persuaded by your arguments and would support an amendment along the lines that you proposed.

The Chair: Thank you, Mr. Genuis.

Ms. Zann is next.

Ms. Lenore Zann: Thank you, and thank you for that explanation.

I want to say that I agree with Mr. Harris. I definitely thought that he had a very thoughtful response.

The Chair: Thank you, Ms. Zann.

Mr. Williamson is next

Mr. John Williamson: Thank you, Mr. Chair.

I just emailed Jack suggesting that he propose a subamendment, so Jack, I'll yield my time to you, because I think you've convinced your colleagues here that your concern is valid and that we should make that change to the amendment to the motion that's on the floor.

The Chair: Thank you very much, Mr. Williamson.

Go ahead, Mr. Harris.

Mr. Jack Harris: I would wish to propose that subamendment, and perhaps I could do this with a little assistance from the clerk.

It would be that after the wording that says, "these documents be deposited, in both official languages, with the Law Clerk and Parliamentary Counsel no later than two weeks following the House's concurrence in this recommendation", that paragraph b) of Mr. Genuis's amendment be replaced with the paragraph b) that is in our original motion. That reads as follows:

b) the Law Clerk and Parliamentary Counsel discuss with

—and I think we should probably have the name of the committee, I guess, the Canada-China committee—

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

The Chair: I think you mean the Special Committee on Canada-China Relations, of course.

Mr. Jack Harris: Yes, it's the Special Committee on Canada-China Relations. I have asked the clerk to help us with the proper wording.

The Chair: Madam Clerk, are you able to assist Mr. Harris?

The Clerk: Yes. I do have it here. We're essentially taking the b) from the motion that was adopted on March 31, 2021, and just replacing the b) from the amendment from Mr. Genuis as a subamendment.

When we are doing motions in this committee, we don't need to put the name of the committee, because it's understood that we are talking about this committee.

Mr. Jack Harris: Chair, I would only suggest that perhaps if this is going to the House, it might have to identify the committee in some way or other.

The Chair: If it's going to the House, it would be by way of a report from the committee, would it not?

● (2015)

Mr. Jack Harris: Whatever's proper precedent is fine. I rely on the clerk's advice on that aspect.

The Chair: Madam Clerk, go ahead.

The Clerk: Yes, absolutely. It would have the headline that says "Special Committee on Canada-China Relations" and then the text of the motion.

The Chair: Thank you.

It currently doesn't include reporting to the House, does it?

The Clerk: Yes, it does.

The Chair: Thank you.

Mr. Harris, your hand is still up.

Mr. Jack Harris: It's only by accident, Chair.

The Chair: We all do that sometimes.

Mr. Oliphant, I presume that's not by accident.

Mr. Robert Oliphant: No; it's maybe by regret.

I'm in favour of this change. I would prefer that this happen before it goes to the House. I think it comes back to committee before it goes to the House; however, I can live with this. To me, the timing should go from the law clerk to us to the House. I would support the subamendment, which would mean I would be supportive of the amendment, which would mean I would be supportive of the motion eventually.

The Chair: Thank you very much, Mr. Oliphant.

Does anyone wish to debate the matter further?

Go ahead, Mr. Harris.

Mr. Jack Harris: Mr. Oliphant, given your experience in dealing with the public health agency and your experience within government, what are your views on the timelines that are being proposed here and the opportunity for the potential of a compromise? Is this indeed a set-up that might lead to some opportunity for reason to prevail, shall we say?

The Chair: Mr. Oliphant has used the raise hand function, which makes me think he wishes to reply.

Mr. Robert Oliphant: I think that in the context of the pandemic, giving the health agency a little longer would give them a little longer opportunity than the seven days to negotiate or to rethink and to come back with something. We can't do a sub-subamendment, so I would only try to get unanimous consent to move that to 14 days instead of seven days. I just want to respect the fact that these people are already working seven days a week, 15 hours a day. I'm just going to try for 14 days. If we can get unanimous consent, we could do it that way.

The Chair: Thank you, Mr. Oliphant.

Is there an objection to Mr. Oliphant's request for unanimous consent to—

Hon. Michael Chong: No, there's no consent.

The Chair: Thank you.

I have Mr. Harris next.

Mr. Jack Harris: I just didn't lower my hand.

The Chair: Thank you.

I have Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Chair.

I go back to what we just heard from our colleague Mr. Oliphant. The Public Health Agency of Canada is working day and night. I think every party ought to admit this, and if it's not going to be 14 days, would the committee consider 10 days as a compromise, through unanimous consent? We've gone this far. I think there's a great deal to be said about the manoeuvring on our side to meet in the middle somehow. Instead of seven days, can we go to 10?

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

The Chair: Mr. Genuis, you have a point of order.

Mr. Garnett Genuis: With great respect, we're on a subamendment from Mr. Harris, so my suggestion would be that we complete consideration of that subamendment. That might give members a couple of minutes to chew on Mr. Fragiskatos' suggestion, and frankly, the appropriate time to consider that suggestion would be once we're back on the main amendment anyway. Why don't we just take the vote on the subamendment and then return to this issue?

The Chair: It looks like I have people still wishing to debate. Mr. Fragiskatos, I think your hand is now down.

Go ahead, Mr. Harris.

Mr. Jack Harris: Since we're perhaps being a little bit picky here and I invited the question, I think it would be very useful and instructive to those who are paying attention that any decision of this committee of this kind be unanimous. If that's possible, I think it would be more forceful.

• (2020)

The Chair: Thank you, Mr. Harris.

[*Translation*]

Mr. Dubourg, you have the floor.

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

In terms of procedures, I'm trying to keep up.

First, Ms. Zann moved a motion. Mr. Genuis then moved an amendment and Mr. Harris moved another amendment. However, when Mr. Oliphant moved his motion, it was put to a vote right away.

Mr. Chair, I would like you to coordinate these amendments and subamendments in order to come up with a motion so that we can vote in a reasonable manner on what has been presented, because there are several changes. There's also Mr. Fragiskatos' suggestion.

As you know, the steps are as follows: proceed with the amendments, vote on the amendments, and then move on to the suba-

mendments, until the passage of the final motion. It would be nice to work that way, Mr. Chair, with all due respect.

The Chair: Thank you, Mr. Dubourg.

I believe that I must first deal with the subamendment. I must then deal with the amendment as amended by the subamendment. Lastly, I must deal with the motion, as amended by both, or not amended at all if the amendments and subamendments aren't passed.

Madam Clerk, is that right?

The Clerk: Yes, exactly.

The Chair: Thank you, Madam Clerk.

Mr. Dubourg, I see that you've finished.

Mr. Bergeron, you have the floor.

Mr. Stéphane Bergeron: Thank you, Mr. Chair.

I think that, as parliamentarians, we have come a long way together. I agree wholeheartedly with Mr. Harris's comment about the importance of being unanimous.

I think that Mr. Fragiskatos is proposing an honourable compromise. I believe that we should accept this proposed compromise unanimously, by consensus, and that we should pass the whole thing unanimously as well. I don't want us to be divided in any way.

I think that the unanimity referred to by Mr. Harris has merit and that, given the steps taken by our colleagues on the government side, we should accept this proposed compromise, Mr. Chair.

The Chair: Thank you, Mr. Bergeron.

I believe that Mr. Genuis said that Mr. Fragiskatos's suggestion should be discussed when we come back to the amendment.

Mr. Stéphane Bergeron: Mr. Chair, let me say that Mr. Oliphant proposed 14 days by unanimous consent. This was refused.

Mr. Fragiskatos asked for 10 days by unanimous consent. However, there was no decision on that request. I just want to say that, if this type of request for unanimous consent were made—and I believe that it was—I would agree that we should proceed to 10 days.

The Chair: Thank you.

I think it will be sought once we are back on the amendment, after dealing with the subamendment.

I see no hands raised.

[*English*]

Are we ready for the vote on the subamendment? Is anyone opposed to the subamendment?

(Subamendment agreed to [*See Minutes of Proceedings*])

The Chair: We are back to the amendment.

Is there any debate on the amendment?

Go ahead, Mr. Williamson.

Mr. John Williamson: Just for clarification, is this the amendment of 10 days or is this MP Genuis's amendment?

The Chair: We're at Mr. Genuis's amendment, and therefore, of course, if someone wishes to make the change to 10 days, they can propose that during this conversation.

• (2025)

Mr. John Williamson: I will do that, with a full nod to my honourable colleague, MP Fragiskatos. I think we should move that, and I look for unanimous consent to make that happen. I move that "within 7 days" be replaced by "within 10 days".

The Chair: Thank you very much.

Is there anyone opposed to that motion to amend that was proposed by Mr. Genuis? Seeing none, that motion to amend is carried.

(Amendment agreed to [*See Minutes of Proceedings*])

The Chair: We are now on to the main motion—

Mr. Jack Harris: I'm sorry, Chair. There was no objection, but is that interpreted as it being a unanimous motion? I would say that if we get to the main motion, we should have a recorded vote so that we can be very clear that it's not just that nobody objected, but that there was a unanimous consent to the motion.

The Chair: Thank you, Mr. Harris.

Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos: Chair, one of our colleagues, Rob Oliphant, has technical challenges. He's lost his Internet. We've been collaborating here. I wonder if we can somehow find a way to ensure that it gets back on.

The Chair: I have a thought. It being 9:26 Pacific Time, 8:26 Eastern Time, and I guess 9:56 in Newfoundland and Labrador time, maybe we can take a five-minute health break. Is that agreeable? I see thumbs up, so—

Mr. Peter Fragiskatos: You read my mind. Chair.

Mr. Garnett Genuis: I have my whole file of motions to propose when Rob Oliphant is not online. I was about to pull those out.

Ms. Lenore Zann: Just don't take over the chair.

The Chair: I think it is still a good idea to take that five-minute health break.

Mr. Garnett Genuis: All right.

The Chair: Mr. Oliphant, this is your opportunity to do so.

Mr. Robert Oliphant: I'm back.

Ms. Lenore Zann: So much for a health break.

Mr. Robert Oliphant: Everything just stopped. I think Garnett did it.

The Chair: Order, Mr. Oliphant. We are hereby suspended.

Mr. Garnett Genuis: Yes, I did it.

The Chair: You have five minutes. I'll see you shortly.

• (2027)

(Pause)

• (2034)

• (2030)

The Chair: I call the meeting back to order.

Mr. Genuis, your hand is up.

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

I was just reviewing this. I want to propose that we add one additional phrase. I think it clarifies the procedure. Right now, what I have for Ms. Zann's motion prior to the text we added with the amendment is "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel to review and ascertain the fairness of them."

Madam Clerk, can you confirm that what I've read so far is correct?

The Clerk: I can confirm that we looked on ParlVU to see what Ms. Zann did say. I can confirm that she said "to review and ascertain the fairness of them".

• (2035)

Mr. Garnett Genuis: Okay, so what I read is correct.

The Clerk: Yes, that's correct.

Mr. Garnett Genuis: I would like to propose that after "ascertain the fairness of them", we add "and to report to the committee on them in the manner prescribed by the motion adopted on March 31, 2021."

The Chair: That would be where?

Mr. Garnett Genuis: That would be after the text proposed by Ms. Zann and before the text that I had proposed. It would be in between.

The Chair: Madam Clerk, do you have that?

The Clerk: I have "and to report to the committee on the fairness of it". Is that correct?

Mr. Garnett Genuis: No. It should read "and to report to the committee on them in the manner prescribed by the motion adopted on March 31, 2021."

The Chair: That would replace part of Ms. Zann's wording. Is that correct?

Mr. Garnett Genuis: No. It's not replacing anything.

The Chair: Is it an addition?

Mr. Garnett Genuis: Yes, it's an addition. It would read, "to review and ascertain the fairness of them and to report to the committee on them in the manner prescribed by the motion adopted on March 31, 2021."

The Chair: Thank you.

Madam Clerk, do you have that? I see thumbs up.

The Chair: Mr. Harris, do you have a point of order?

Mr. Jack Harris: Yes. Can he do that? Can we do that?

The Chair: This is back on the main motion as amended, and yes, as I understand it, the motions to amend it are in order.

Mr. Jack Harris: Does this all string together? We're not losing the rest of the amendment, are we?

The Chair: I was planning to ask the clerk to read the entire motion in due course before we vote on the main motion. Perhaps you'd like her to do that now, with what Mr. Genuis is proposing.

Is that what you would like, Mr. Harris?

Mr. Jack Harris: I would like that at some point, because we're going on the fly here. We don't have the written version of the full motion.

It would seem to me that there are two separate things going on here. One is ascertaining fairness. I'm not sure how one might do that, but I guess that's why the amendment was made. I'd really like to see the whole thing, because I'm trying to piece together what Mr. Genuis had in his amendment, which begins "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk within 7 days, and should the documents not be provided, the committee report the following to the House".

I don't know whether that is still the amendment. I thought the words of the amendment were what I received in bold from Mr. Genuis. I don't have anything from the clerk.

The Chair: Let me ask the clerk to read to us the motion currently before us and then read what Mr. Genuis has proposed as an amendment to it.

The Clerk: Please correct me if I'm wrong.

The motion would read, "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel within 10 days to review and ascertain the fairness of them and to report to the committee on them in the manner prescribed by the motion adopted by this committee on March 31, 2021".

We would then go to the rest of the amendment provided by Mr. Genuis. Would you like me to read that as well?

The Chair: Yes.

The Clerk: Okay. It continues:

And should the documents not be provided, that the committee report the following to the House: Your committee recommends that an Order of the House do issue for all information and documents, in the care, custody or control of the Public Health Agency of Canada and subsidiary organizations, respecting the transfer of Ebola and Henipah viruses to the Wuhan Institute of Virology in March 2019 and the subsequent revocation of security clearances for, and termination of the employment of, Dr. Xiangguo Qiu and Keding Cheng, provided that: (a) these documents be deposited, in both official languages, with the Law Clerk and Parliamentary Counsel no later than two weeks following the House's concurrence in this recommendation;

The (b) that was amended would read:

(b) the Law Clerk and Parliamentary Counsel discuss with the committee, in an in camera meeting, information contained therein, which in his opinion, might reasonably be expected to compromise national security or reveal details of an ongoing criminal investigation, other than the existence of an investigation, so that the committee may determine which information is placed before the committee in public; and (c) these documents be laid upon the Table by the Speaker at the next earliest opportunity, once vetted, and referred to your Committee.

• (2040)

The Chair: I have Mr. Harris—

Mr. Garnett Genuis: I have a point of order.

The Chair: Go ahead on your point of order.

Mr. Garnett Genuis: Mr. Chair, maybe I misheard, but I don't know if that fully captured where my amendment was.

The second sentence is very long. This amendment that I am proposing does not in any way touch the second sentence. It revises the first sentence to read, "That the unredacted documents from the Public Health Agency of Canada be provided to the Law Clerk and Parliamentary Counsel within 10 days to review and ascertain the fairness of them and to report to the committee on them in the manner prescribed by the motion adopted on March 31st, 2021.

Madam Clerk, maybe that's what you read and I just missed it.

That's what you read? Okay. My apologies.

The Clerk: No worries. That's what I have.

The Chair: It's a lot of words—

Mr. Jack Harris: On a point of order, Chair—

The Chair: Go ahead, Mr. Harris.

Mr. Jack Harris: I do note that the latter part of the original amendment of Mr. Genuis still contains talk about laying the documents on the table and then sending them to the committee. Is that the question that Mr. Oliphant raised when we were talking about this?

The intention was really to replace the balance of everything after (a) with the (b) that was in the existing March 31 amendment. It was to replace everything after (a) with (b), which was the (b) paragraph in the amendment. Everything after that in (c)—that the documents be laid upon the table by the Speaker at the next earliest opportunity, and so on—would not be necessary, in my view.

Is that your understanding, Mr. Genuis? The procedure, if it goes to the House, is that the House just passes an order to have the balance of that document follow.

Mr. Garnett Genuis: Mr. Chair, can I come in on that point?

The Chair: You can, yes, if I have the consent of Mr. Oliphant and Mr. Fragiskatos. Please give me a thumbs-up if I have your consent, gentlemen.

Okay. They're all right with that.

Mr. Garnett Genuis: We're talking about a couple of different things, but I do think (c) is still important following (b), because (c) prescribes the procedure that the Speaker will follow once the documents are reviewed. The procedure for (b) is that the committee considers the documents, but since it would be an order of the House, (c) is still important insofar as the Speaker would lay the documents on the table.

My understanding of the subamendment was that it was a subamendment to replace the original (b) with Mr. Harris's (b), but we would preserve (c). That's consistent with what I thought we'd decided to do.

Mr. Jack Harris: That doesn't make.... These documents are already in the hands of the clerk, and he's already discussing them with the committee. The committee has them, and he's determining which information may be placed before the committee. I don't know how they get to the House unless the clerk then takes them afterward from the committee and gives them to the House, and the House gives them back to the committee.

That was Mr. Oliphant's problem, I believe.

Was it, sir?

The Chair: I have next Mr. Oliphant and Mr. Fragiskatos, and I believe that Mr. Chong is in the room and wishes to speak.

Go ahead, Mr. Oliphant.

Mr. Robert Oliphant: I hated to do this, because we're getting into a problem. I drew a chart of what is supposed to happen, and this is not making sense to me now.

The first problem is that I think Ms. Zann's motion presupposes two sets of documents being compared, and I think that we've kind of lost that in the wording. It doesn't say that. However, I think her intention is that we have the redacted documents and the unredacted documents, and that they are compared and we are advised on.... "Fairness" is a word that I use all the time; it's sort of churchy and theological, and it has a just thing. I think "suitability" or "appropriateness" probably is the better word there.

There is a process, then, that we would engage. We would ask for the whole document to be given by the Public Health Agency of Canada to our lawyer. He and his shop would review them as to the suitability, based on the criteria that we already laid out in our very first motion. He would come back to us and tell us that it is suitable, in his mind. He doesn't do the redactions; he has two sets of documents.

Then if that doesn't happen—if we either don't get the documents in an unredacted form or we find them unsuitable—we have a process whereby we go to the House, and there's an order. They're then retrieved by the House, and I don't quite know how that happens, because I have several little cliffs in my drawing where I can't find the logic. Then we have something else that happens.

We also can't tell the Speaker what to do. I mean, that language.... I was just trying to figure out.... We can't presuppose. We can pass a motion and take it to the House, and the House can then do something, but we can't tell the Speaker what to do. The Speaker will do what the Speaker wants to do and will rule on something, and then we'll have something happen.

There's a string of pearls here that we put together that doesn't really work. I can let it go and just say, "Let the chips fall where they may," but I'm not sure that we have a coherent set of steps. I was trying to say that because I wasn't sure when and where the law clerk got the documents and what he was supposed to do with them, and to whom he was supposed to report. To me, it felt like there was something not working.

That's where I'm at. I've only had a chance to draw out the problem. I haven't had a chance to come up with a solution, because I think the committee is getting to be of a mind.... In very general terms, we want the ability to find out what's in those documents.

We would trust our lawyer to first see them and advise us, but then we would want to see them all if he says that these are inappropriate. We also would want to go to the House to be backed up and have a Speaker's ruling to make sure that what we are doing is within parliamentary procedure, and we would make that demand and give them another chance to get them back to us. Then the Speaker would decide what the ultimate consequences would be. We wouldn't decide what the ultimate consequences would be.

I like the intent of, I think, where we're all at. I think there's an agreement now about this, but I'm just not sure how it's supposed to actually mechanically happen and whether it makes sense.

• (2045)

The Chair: Thank you, Mr. Oliphant.

Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos: Thank you, Mr. Chair.

With regard to Mr. Genuis' proposed wording that he wishes to add, I just don't see where the need is. I know what he's getting at in the suggestion, but I don't think that this strengthens the motion in any way. It further confuses it, in fact. I would just maybe put it back to him to leave things as they were.

The Chair: Thank you, Mr. Fragiskatos.

Mr. Chong is next.

Hon. Michael Chong: Thank you, Mr. Chair.

I support Garnet Genuis' amendment. I support it because we need the unredacted documents from PHAC. PHAC is telling us, and has been telling us and the media, that the termination of Dr. Qiu and Dr. Cheng had nothing to do with the emergence of the coronavirus late in 2019. PHAC has been telling us and telling members of the media that the shipment of Henipavirus and Ebola virus to the Wuhan Institute of Virology had nothing to do with the emergence of the coronavirus late in 2019, ostensibly in Wuhan.

There is no doubt about a couple of things. There is no doubt that Dr. Qiu and Dr. Cheng worked at the National Microbiology Laboratory in Winnipeg, Manitoba. There is also no doubt that in order to work there, you need secret level clearance, clearance that they must have had in order to work there. There is no doubt that the National Microbiology Laboratory in Winnipeg co-operated closely with the Wuhan Institute of Virology. There is no doubt that Dr. Qiu shipped Ebola virus and Henipavirus to the Wuhan Institute of Virology on March 31, 2019, only eight short months before the emergence of the coronavirus. There is no doubt that she trained technicians at that very institute of virology to establish a level 4 lab, the only level 4 lab in the People's Republic of China. There is no doubt that the coronavirus emerged ostensibly in Wuhan a number of months later.

There have been references in this committee about conspiracy theories. Let me quote Ian Bremmer, who is anything but a conspiracy theorist.

Today he said this: “China’s unwillingness to co-operate with the World Health Organization in investigating the coronavirus’s origins has made it impossible to substantiate how the disease came into existence, thereby obscuring the scientific response. Indeed, despite all the claims of conspiracy, the theory that COVID actually was inadvertently released from a Wuhan biolab remains both plausible and deeply concerning.

That’s from Ian Bremmer. I might add that the former chief of staff to the Prime Minister has a colleague of his at his Eurasia Group.

There are two theories about how the coronavirus emerged. One is that it was zoonotic, and the other is that it somehow came out of this National Institute of Virology lab in Wuhan. It’s not just Ian Bremmer who is saying this. It is people like Nicholas Wade, a well-respected science writer who was the former deputy editor of Nature magazine, a reputable peer-reviewed science magazine. He also worked at Science magazine, another peer-reviewed academic publication, and he worked for many decades at The New York Times. He wrote a piece just five days ago asking questions about where this coronavirus emerged from.

The reason I raise this point is that the Government of Canada’s National Microbiology Laboratory closely co-operated with the Wuhan Institute of Virology, and the Canadian public has the right to know what the extent of that co-operation was, why these two scientists there were terminated, and what exactly happened with the transfer of Henipavirus and Ebola virus, as well as any other workings and goings-on between a Government of Canada institution and this virology lab in Wuhan.

That’s why we need to get this information. In a parliamentary democracy, the public has the right to know.

• (2050)

I hope this committee, before it adjourns today, adopts the motion as amended and compels PHAC to produce this information, information that is not only required under precedents set by—

Mr. Robert Oliphant: I have a point of order, Mr. Chair.

The Chair: Go ahead on a point of order, Mr. Oliphant.

Mr. Robert Oliphant: I’m going to raise a point of order regarding relevance, because drawing together two threads that are completely unrelated is absolutely irrelevant to this discussion. To do it passionately and to do it with quotes is irresponsible and has nothing whatsoever to do with the motion at hand.

Mr. John Williamson: This is debate.

Mr. Robert Oliphant: This is not debate. This is about relevance, and matters of relevance, under our Standing Orders, are absolutely appropriate to be raised, and raising this by drawing two threads together is absolutely irresponsible and should not be condoned by this committee, because it is not relevant to the discussion at hand.

We have asked for papers about a very specific incident. We could ask virologists to come before us and ask whether there is any relationship to the two viruses that have been discussed tonight with the coronavirus, and they are separate viruses. Anybody who knows anything about viruses knows that. This is cheap politics,

and it should not be condoned in this committee, because of irrelevance.

• (2055)

The Chair: Thank you, Mr. Oliphant.

As you know, yes, we have the rule of relevance. Of course, it is not strictly enforced. Members have the ability to bring themselves to the point, so I would ask Mr. Chong to bring it into the discussion we’re having.

Hon. Michael Chong: Mr. Chair, with respect, I don’t take the floor very often in this committee, relative to many other members, and I’m speaking to a point that’s very relevant to the amendment at hand and the main motion at hand.

The issue is this. Dr. Qiu trained people at the Wuhan Institute of Virology so that it could be registered as a level 4 lab, the only level 4 lab in China. Why is that relevant? It’s because the State Department of our closest ally and trading partner said earlier this year that the standards at the lab were not upheld, that they weren’t operating to level 4 criteria, that they were often operating with very dangerous viruses at level 2 or level 3.

That’s why we need these documents. We need to know what the Government of Canada was doing through the National Microbiology Laboratory in Winnipeg with respect to co-operating with the Wuhan Institute of Virology in Wuhan, China.

That’s why we need these documents. We are a parliamentary democracy, and under two sets of conditions we have the right to these documents. As my colleagues have outlined and as the law clerk has outlined, there are precedent-setting rulings that Speaker Milliken issued in—

Mr. Peter Fragiskatos: I have a point of order, Chair.

The Chair: Mr. Fragiskatos, go ahead on a point of order.

Hon. Michael Chong: —2010 on this very issue.

The Chair: Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos: Mr. Chair, I’ll come back to this point of relevance. I’ve worked with the colleague opposite. I’ve worked with Mr. Chong since the inception of this committee. I’ve had the chance to get to know him a bit over the years. I’m really surprised at what I’m hearing here. I consider him to be someone of substance.

At this moment—

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

Mr. Peter Fragiskatos: Let me continue, Mr. Chair, if I could.

The Chair: I’m listening to a point of order, and I’ll have one person speak at a time.

Continue, Mr. Fragiskatos.

Mr. Peter Fragiskatos: Mr. Chong is proceeding to connect dots here. He is borrowing from some of the wildest theories on Facebook and other social media to make a point—

Mr. Garnett Genuis: Come on.

Mr. Peter Fragiskatos: —here that is irrelevant to this committee. We were about to resolve—

The Chair: Mr. Genuis—

Mr. Peter Fragiskatos: —an issue that we were talking about all night. We had reached a compromise motion, and all of a sudden we have now proceeded into these...not even theatrics. I'm not sure.

This is a very bizarre moment in this committee. I haven't seen something like this since the committee was formed, and I've been here from day one.

The Chair: Mr. Fragiskatos, thank you. You've made your point and your view on relevance. I've indicated that the rules of relevance are not strictly enforced, but of course I've also asked Mr. Chong to ensure that he brings this within relevance to the discussion before the committee and subject to the committee's study.

That's where we are, and Mr. Chong has the floor.

Hon. Michael Chong: Thank you, Mr. Chair. I will wrap up quickly.

What I am raising is entirely relevant, and these are not conspiracy theory-driven questions.

Nicholas Wade published questions five days ago in the Bulletin of the Atomic Scientists, which is a reputable organization. Ian Bremmer is raising questions about the origins of this virus and the role that the Wuhan Institute of Virology played. Other people are raising questions. This is not in some dark part of the web, driven by conspiracies. These are reputable people raising very real questions.

Our question for us as Canadian parliamentarians is what role the National Microbiology Laboratory had in co-operating with this Institute of Virology in Wuhan. They trained them to a level 4 standard. They sent scientists and viruses over there. We need to know what the co-operation was and why Dr. Qiu and Dr. Cheng were terminated. We need to know what exactly happened in this situation.

Let me finish by saying this. We are a parliamentary democracy, and under two sets of conditions, we have the right to these documents.

As my colleagues previously mentioned, Speaker Milliken's ruling of 2010 was precedent-setting, not just in the Canadian House of Commons but in parliaments throughout the Commonwealth. That ruling made it clear that parliamentary committees in the House have the right to seek papers and other documents from the Government of Canada without restriction, which is exactly what we did in the motion we adopted on March 31, some five weeks ago. These are documents that we have not yet received in unredacted form, as we requested.

Statute law itself says that in respect of personal information, our committee, under paragraph 8(2)(c), has the right to have it, yet we are being stonewalled during a pandemic when the authorities of Parliament and its ability to hold the government accountable are already curtailed.

For all those reasons, I hope that by the end of this committee in half an hour, we will adopt the amendments and the motion that ensure that PHAC provides us with this information, because the Canadian public deserves to know.

Thank you, Mr. Chair.

• (2100)

The Chair: Thank you, Mr. Chong.

Mr. Oliphant is next.

Mr. Robert Oliphant: I think we're in agreement on the fact that we want the papers. I am confused as to what that argument was about. We want the papers. I don't think anyone on the committee said that we don't want the papers. We want to exercise our parliamentary privilege. We get that.

I would say, having a Speaker's ruling—and it may be a question that Mr. Dufresne can answer for us, but I'm not even going to get in there.... I think there is an issue in that just because the Speaker of the House says the House has authority doesn't mean that the Supreme Court also said that. He has told us a couple of times that the Supreme Court said that. I've never seen a citation, so I'm not sure what that is.

I'd be happy at some point to see that Speaker Milliken's ruling was upheld in a court of law, because if one branch of government says it can get something.... Well, of course they're going to say they're going to get something, because that's their job.

That said, I don't think we're arguing about that right now. We all agreed that this is an important set of documents. We want to do it carefully. We want to do it judiciously. We want to make sure that there could be some way we could negotiate with PHAC, to find a way that they could exercise their authority and responsibility and we could exercise ours. We're not arguing.

What I am disagreeing with are far-fetched ideas that even hint at some association that makes no sense, that there is something embedded in these documents that's going to solve the world's question about where the coronavirus, COVID-19, came from. I think that's bad rhetoric. I think it's misinformation. I think it's drawing associations that should not be drawn together at a committee of Parliament, and I think it just seeds the oddest ideas in other people's heads.

Let's get out of this. I'm happy with this motion. I think it's going to be pretty hard to figure out exactly where we go with it and how it gets operationalized, but I can live with it. I can live with the motion. Get it done.

There's a certain vilification that's going on here too, that I think is very problematic. I'd just like us to get this motion done, and we'll figure it out.

The Chair: Thank you, Mr. Oliphant.

I have Ms. Yip, Monsieur Bergeron, Ms. Zann and Mr. Harris.

Go ahead, Ms. Yip.

Ms. Jean Yip (Scarborough—Agincourt, Lib.): I agree with Mr. Oliphant. We need relevance. Let's just keep it simple. Let's just go back to what we were discussing.

I think most of us are on board. We've already used up—I don't want to say “wasted”—enough time. We have witnesses who are here to answer questions, so let's move on this.

The Chair: Thank you, Ms. Yip.

[*Translation*]

Mr. Bergeron, you may go ahead.

Mr. Stéphane Bergeron: Mr. Chair, I honestly feel as though I've missed an episode. Everything was going great, we were about to adopt a motion on which there was a consensus, and now, here we are, caught up in an altogether different debate with somewhat heated rhetoric. I thought we were at a different point. We all understood the situation. We all agreed that we wanted to obtain the documents, to get to the bottom of the matter and to understand what happened.

It now seems as though some of my fellow members are worried that the motion is being adopted too quickly and that they won't be able to carry on their vengeful diatribe or whatever this is. It is bizarre, to say the least. As my mother, who's from the Lower St. Lawrence, would say, “things are getting worse, not better.”

We should be voting on a motion on which we all agree. How did we get to this bizarre place when everybody was in agreement? New tensions have emerged, not only between committee members and some of the witnesses, but also among committee members, themselves. I don't understand how we got here. I'm shocked and disappointed, Mr. Chair.

We should vote right away. We are indeed wasting time, and I fear the meeting will end before we have a chance to adopt the motion.

In the spirit of co-operation that has defined the dynamic among committee members since the meeting began, can we not just come back to the motion we were getting ready to vote on—a motion we all agreed on, a motion we could adopt unanimously, Mr. Chair?

• (2105)

The Chair: Thank you.

We now go to Ms. Zann.

[*English*]

Ms. Lenore Zann: Thank you, Mr. Chair.

[*Translation*]

Thank you, Mr. Bergeron.

[*English*]

I would have to say that we are all in violent agreement, and we were reaching the goalposts together before this side outburst happened. We don't need it. I think the histrionics are unnecessary at this point. We are all here and working collegially together. Let's just get back to the point at hand.

Thank you so much.

The Chair: Thank you very much, Ms. Zann.

Mr. Harris is next.

Mr. Jack Harris: Thank you.

To the point at hand, I think what we have now put together is, first of all, that we ask that the Public Health Agency of Canada provide the documents to the parliamentary law clerk, which we've already asked for, who will review and ascertain the fairness of the report for the committee using the existing procedure. If they don't do that, we ask for an order of the House to do exactly the same thing, with one exception. At the end of doing what our motion says, as discussed with the committee, we somehow add “and these documents be laid on the table by the Speaker at the next earliest opportunity”.

I think that's superfluous at this point and that everything after the word “public” in amended paragraph (b) is superfluous, because the House then orders something consistent with our motion, which is that the documents be given to the clerk. The clerk then discusses them with the committee, and we decide. Then we carry on. We don't send them back to the House and then they come back to the committee. That's an unnecessary step.

I thought I had eliminated that when I moved my amendment, but apparently that didn't happen. We still have paragraph (c) in the original amendment by Mr. Genuis. This is part of the problem, I guess, of dealing with documents on the fly. I want to propose an amendment: that we delete all the words after “before a committee in public” as they appear in paragraph (b) of the now amended motion, and that it end with the word “public”.

The Chair: Thank you, Mr. Harris.

We currently have on the table Mr. Genuis's motion to amend the main motion.

Mr. Jack Harris: Okay, sorry.

The Chair: Once we deal with that, you can then propose your motion to amend.

Mr. Jack Harris: I think that solves the logical issue referred to by Mr. Oliphant.

The Chair: Thank you.

Mr. Genuis, please go ahead.

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

I share Mr. Chong's concerns and passions for the importance of Parliament.

I want to make some brief comments on the amendment I proposed.

In the event that the documents are provided by PHAC, it clarifies that the procedure by which those documents would be reviewed would be the same procedure that was envisioned in the motion of March 31. That's why I think my amendment is important.

My suggestion is to vote on my amendment and Mr. Harris's amendment, and then to vote on the main motion.

• (2110)

The Chair: That's, in fact, what I have in mind.

Is there any further debate on Mr. Genuis's amendment?

Is anyone opposed to Mr. Genuis's amendment?

Yes, someone is opposed to it. Therefore, I'll call on the clerk to take the vote on Mr. Genuis's proposed amendment.

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

The Chair: Mr. Harris, do you wish to move your amendment?

Mr. Jack Harris: Yes, I do.

It would remove all the words after the word "public" in paragraph (b).

The Chair: Would it be "before our committee in public"? It's after those words, right?

Mr. Jack Harris: Yes, it's after those words.

The Chair: Thank you very much.

Does anyone wish to debate the proposed amendment?

Does anyone oppose the proposed amendment?

Mr. Genuis does, so I'll ask the clerk to take the vote.

(Amendment agreed to: yeas 7; nays 4 [*See Minutes of Proceedings*])

The Chair: We are now back on the main motion as amended.

I see no one else wishing to debate it, so I'll ask the clerk to take the vote on the main motion.

(Motion as amended agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

The Chair: Mr. Genuis, go ahead.

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

I would like to propose that the draft report that the clerk had referred to with respect to the privilege issue be distributed to members of the committee.

The Chair: Is that the will of the committee? Is anyone opposed to that proposal?

Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos: Mr. Chair, could I just ask for the rationale there?

The Chair: Go ahead, Mr. Genuis.

Mr. Garnett Genuis: Sure.

The distribution of the work that the clerk has done would be a draft report, so it would be covered by the in camera requirements anyway. It is work that has been done that makes us aware of an option, if we wish to make use of it at some future point. I think it's reasonable for the members of the committee to have that in front of them so that we can consider it at a future point if we wish to.

The distribution of it to committee members is just a matter of information for our use. It doesn't in any way predetermine a next step.

• (2115)

The Chair: Is anyone on the committee opposed to that distribution?

Seeing none, I will take it as agreed. I will ask the clerk to do so. Thank you very much.

Colleagues, it's 9:15 Eastern Time.

Mr. Genuis, is your hand up again?

Mr. Garnett Genuis: I was going to propose that we give people the opportunity to ask questions of the witnesses in the final 15 minutes. Maybe you were going to propose that anyway.

The Chair: It's up to the committee. I wanted to ask what the wish of the committee was.

The last person I had was Ms. Zann. She was two minutes into her five minutes.

Ms. Zann, if you have more questions, you may proceed. Then I will go on to Mr. Bergeron, Mr. Harris and Mr. Paul-Hus, if there's time.

Ms. Lenore Zann: Wow. I feel like we have gone all around the world and come back again.

First of all, I have to say thank you to the witnesses for their patience. I know it's a very long night while parliamentarians are debating and you're waiting to find out what we're going to do. I certainly hope that you will take our wishes, recommendations and requests back to the department and discuss sincerely with them and with your lawyers what to do. We would very much like to get the unredacted report if possible.

Mr. Stewart, could you explain to us again what exactly was being taken back to Wuhan, China, regarding the Ebola virus, etc? Can you please expand on upon that a little bit more?

Mr. Iain Stewart: Mr. Chair and member, thank you for the question.

I was wondering, because there was a discussion earlier, whether you would come back to this topic of the Henipavirus and the Ebola virus and the shipment to the Wuhan Institute of Virology.

I was wondering, Mr. Chair, if the members would benefit or not from asking Dr. Guillaume Poliquin about the relationship among these viruses. It seems to have become something in the course of the committee this evening. In fact, Dr. Guillaume Poliquin is a world expert in this exact area. It might be helpful for background for members if that's appropriate.

The Chair: If you're referring to him, Mr. Poliquin can go ahead for a minute and 15 seconds.

Ms. Lenore Zann: Thank you.

Dr. Guillaume Poliquin (Acting Vice-President, National Microbiology Laboratory, Public Health Agency of Canada): Thank you, Mr. Chair, and thank you, President Stewart.

Yes, the materials that were shipped to the Wuhan Institute of Virology included Henipaviruses as well as Ebola viruses. These are both in the order of mononegavirales. They are two different families within that order. It is important to note that coronavirus is part of the coronaviridae family and is in a completely different order and kingdom. They are not, in fact, at all related and would not have been relevant to SARS CoV-2, as was previously discussed.

The Chair: Ms. Zann, you have 20 seconds.

Ms. Lenore Zann: Thank you very much.

Mr. Stewart, with regard to the investigation, were you clear as to whether the provincial RCMP or federal RCMP were doing the investigation?

Mr. Iain Stewart: I don't know which arm or which group within the RCMP is conducting the investigation, to be honest. All I can say is that the RCMP is in fact conducting an investigation, Mr. Chair.

The Chair: Thank you.

That's the end of Ms. Zann's time.

[*Translation*]

Mr. Bergeron, you may go ahead. You have two and a half minutes.

Mr. Stéphane Bergeron: Mr. Chair, I want the witnesses to know that, as they observed—except during the tail end of our discussion on the motion—parliamentarians unanimously agree on the right of committees to send for papers and information and that they are determined to move ahead.

I said before that we had given you an opportunity to find common ground. That opportunity stands. What I would like most is to not have to involve the Speaker, who would inevitably rule against you, placing you in a most awkward position.

I want to stress that we are reasonable people whose goal is not to publicly disclose personal information, information related to national security or information related to a police investigation.

Now that we, as parliamentarians, have given you those assurances and extended an opportunity to find a resolution through common ground, one that would save us from having to take a more radical approach, are you receptive to that or should we expect an equally unsatisfying response from you in the days ahead?

• (2120)

[*English*]

Mr. Iain Stewart: Thank you, Mr. Chair.

First of all, I want to thank the honourable members. There have been many warm words said about the Public Health Agency, and I underline that for a reason. One of the members noted that our area of expertise is medicine—in fact, nursing, public health, epidemiology, statistics and so on—which is to say that we're a public health agency. We're not expert in the topics here tonight. Listening, it's been constitutional law, Parliament, the relationship of the executive and the House of Commons. These are not areas that the Public Health Agency is expert in, so we're guided by experts, and we will be guided here by what the experts tell us to do.

Thank you for the question.

The Chair: Thank you, Mr. Stewart.

Mr. Harris, you have two minutes and 30 seconds.

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

I would underscore what Mr. Bergeron just said in terms of the sincere attempt by our committee to formulate a way for the Public Health Agency of Canada to comply with the orders and requests for documents and at the same time serve to protect the necessary public interests in not having documents made public or information made public that should not be. We are, in fact, charged with that responsibility as part of our duties of Parliament.

I would urge legal counsel—Mr. Roy, if you're still going to be doing this, or anybody who's doing this—to have a very thorough look at the decision and the ruling of Mr. Milliken, the context in which it was made, the references it took, and the fact that they're dealing with parliamentary law, which is a branch of constitutional law from the U.K. on down. They don't even call it constitutional law in the U.K.; they call it administrative law. It's about decision-making, the powers of Parliament and the powers of the various branches of Parliament, which are adopted into our Parliament. The ruling of Mr. Milliken should be serving as a beacon to the rest of those parliaments that act like ours, with a constitutional set-up and responsible government.

I think it's incumbent for those thorough investigations to be made and to consult with people who are experts in parliamentary law. I think you will find that this is a very good decision and that our method of allowing the documents to be given to our committee is one that is well within that. I would urge you to take that very seriously indeed, and hopefully we'll be able to reach a conclusion that's satisfactory to the committee and that allows us to continue our investigation.

I won't ask you to comment on that.

• (2125)

The Chair: Thank you, Mr. Harris.

[*Translation*]

We have six minutes left, which Mr. Paul-Hus and Ms. Yip will split.

Mr. Paul-Hus, you have three minutes. Go ahead.

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

In three hours, this is the first time I have had a chance to speak, so I'm going to take full advantage of my three minutes.

My first question is for Mr. Stewart.

Mr. Stewart, does every employee at the National Microbiology Laboratory have to have security clearance?

[English]

Mr. Iain Stewart: No, there is a range. There are about 650 employees, and based on their duties, their classification relates to what their obligations and responsibilities are.

[Translation]

Mr. Pierre Paul-Hus: Did Dr. Qiu have security clearance? If so, what level did she have?

[English]

Mr. Iain Stewart: I won't be able to respond to that question about employees for the reasons we discussed previously. I'll just leave it at that.

[Translation]

Mr. Pierre Paul-Hus: Very well.

Mr. Stewart, the motion currently before the committee was adopted on March 31. It was a clear order issued by the committee, and you did not comply.

At the time, the Liberals voted against the motion. Only the opposition parties voted in favour of it. Still, the majority supported the motion, and it was an order.

I'm quite surprised today to see the Liberals bringing forward a motion calling on you again to provide the documentation. Are you going to comply with the unanimous order of the Special Committee on Canada-China Relations?

[English]

Mr. Iain Stewart: Mr. Chair and honourable member, we actually invested a great amount of time and effort in gathering up all the documents available. Guided by experts, we redacted the materials for what we were not able to provide under our understanding of the law and provided the materials to you. We're very pleased to be here this evening to speak with you about this matter.

Thank you.

[Translation]

Mr. Pierre Paul-Hus: You didn't answer my question, Mr. Stewart.

We just spent an hour and a half debating a motion proposed by a member of the Liberal Party of Canada, the governing party.

As you witnessed, the motion was adopted. Parliamentary counsel Mr. Dufresne is with us tonight, as is your counsel. I don't think there is any doubt as to what was said today.

Now, are you going to comply with the committee's order and send the unredacted documents, as you are being asked to do, yes or no?

[English]

Mr. Iain Stewart: Mr. Chair and honourable member, we will take the written question away and we will be guided by experts on the appropriate response.

[Translation]

Mr. Pierre Paul-Hus: How much time do I have left, Mr. Chair?

The Chair: You have 20 seconds left.

Mr. Pierre Paul-Hus: At the beginning of the meeting, you brought up security in relation to the documents. You mentioned the RCMP investigation.

You said there was no connection between the redacted parts of the documents and the RCMP investigation.

Seeing as you're not an expert, how did you come to the decision that this was a matter of national security?

[English]

Mr. Iain Stewart: Mr. Chair, first of all, just to clarify, I made no connection of that nature with respect to the RCMP. I just noted that there is a separate RCMP investigation under way, and we can't speak about that.

The Chair: Thank you, Mr. Stewart.

[Translation]

Thank you, Mr. Paul-Hus.

[English]

Ms. Yip, you have three minutes, please.

Ms. Jean Yip: Thank you.

Thank you for staying right to the end.

Mr. Stewart, it's my understanding that in cases of a transfer in material, certain steps can be omitted for the sake of fostering relationships and collaboration. Is that correct? In what circumstances would a material transfer agreement be required? Can you explain why it wasn't appropriate in this transfer with the lab in Wuhan?

Mr. Iain Stewart: Mr. Chair and honourable member, I will turn to Dr. Poliquin to talk about making adjustments to the MTA, the material transfer agreement. I would just note that predominantly it's an intellectual property document.

Dr. Guillaume Poliquin: Thank you, President Stewart and Mr. Chair.

In fact, material transfer agreements are used as part of the transfer of materials under a set of circumstances when they are warranted, which includes the protection of intellectual property rights.

There are additional considerations with an MTA as it pertains to the use of the materials, but it is important to note that under the provisions of the Human Pathogens and Toxins Act, as well as the Canadian biosecurity standards and the transport of dangerous goods, there are additional legislated requirements in order to proceed with the transfer of these types of viruses that in and of themselves must be met. Therefore, in this case an MTA was not deemed to be necessary, since the provisions on the use of the material were covered in other documentation and there were no intellectual property rights arising.

● (2130)

Ms. Jean Yip: Xiangguo Qiu and her students from China were removed from the lab in July 2019 over what was described as a possible "policy breach" and "administrative matter".

What has happened to the students from China? Have they also returned to China? Are they being investigated?

That's for Mr. Stewart.

Mr. Iain Stewart: Thank you, Mr. Chair and the honourable member, for the question.

I am not able to speak to those matters. Thank you.

Ms. Jean Yip: Is the investigation by PHAC at the NML completed?

Mr. Iain Stewart: Yes. The investigation at the National Microbiology Lab has been completed.

Ms. Jean Yip: What can you tell us about it?

Mr. Iain Stewart: I can tell you it's completed, and that's all.

Ms. Jean Yip: Have there been any policy breaches in recent history similar to what has happened with the two scientists, and what's been done?

Mr. Iain Stewart: I don't know how to answer that question, Mr. Chair and honourable member.

Do you mean with respect to—

The Chair: I'm afraid the time is up.

Ms. Jean Yip: Like a similar incident—

The Chair: Ms. Yip, I'm afraid the time is up.

Before we conclude, I have to ask the members this. The clerk is asking me about the redacted documents that we have received and whether it is the wish of the committee to make them public.

Now, I certainly don't want to have another long discussion; in fact, we have the interpreters and the staff for not very long.

Is anyone opposed to making public the redacted documents that we have received?

Go ahead, Mr. Oliphant.

Mr. Robert Oliphant: I just have a question to ask here. What purpose it would serve? We are engaging now in another process. I actually think that I would like to, in good faith, give the Public Health Agency an opportunity to hear our second request and do that.

I would hope that this committee could understand that it would build some good faith, and we could engage in a conversation with the Public Health Agency of Canada. As the president said, they will be thinking now about our discussion, I would sooner just do that. They're redacted documents, so I'm not worried about the security, but I would like us to give them a chance to bring us new documents.

The Chair: Go ahead, Madam Clerk.

The Clerk: Mr. Chair, I have Mr. Chong in the room.

The Chair: Okay. I have Mr. Chong and then Mr. Genuis.

Hon. Michael Chong: Thank you, Mr. Chair.

I support releasing the redacted documents.

Thank you.

The Chair: Mr. Genuis, go ahead.

Mr. Garnett Genuis: I do as well.

Just to respectfully respond to what Mr. Oliphant said, it's not in any way bad faith or contradictory to the process that we've already established to say that in the midst of ongoing discussions about the unredacted form of the documents, we have already received some information.

We've had a chance to look at that information. I think we should make that information public, just on the basis of government open by default. There's nothing problematic in making that material public. I've reviewed it. Let's start informing the public with the information we have, in the midst of seeking more information.

The Chair: Go ahead, Monsieur Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: On the surface, Mr. Chair, I'm inclined to agree with what Mr. Genuis just said.

The problem is that we did not receive the documents in question until noon today. I'm not sure we have anything to gain by doing this hastily, as is the case right now. I think it deserves a more in-depth conversation at a future meeting. That would give us time to look through the documents we have. Obviously, the goal is to obtain the documents in their entirety so we can go through them one by one to determine what is appropriate in light of the advice from the law clerk and parliamentary counsel.

Therefore, although I appreciate the merits of the member's argument, I'm feeling a bit rushed here. We aren't giving this due consideration, so I would prefer to discuss it further at a later time.

• (2135)

The Chair: Thank you.

[*English*]

Go ahead, Mr. Fragiskatos.

Mr. Peter Fragiskatos: I do agree with Mr. Bergeron on the substance of his points, and I see that the time is now 9:35 p.m., Mr. Chair.

I move to adjourn the meeting.

The Chair: Thank you, Mr. Fragiskatos.

Madam Clerk, please take the vote on Mr. Fragiskatos' motion.

The Clerk: Of course.

(Motion agreed to: yeas 7; nays 4)

The Chair: Thank you, colleagues.

Thank you to the witnesses.

The meeting is adjourned.

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