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# Standing Committee on Justice and Human Rights

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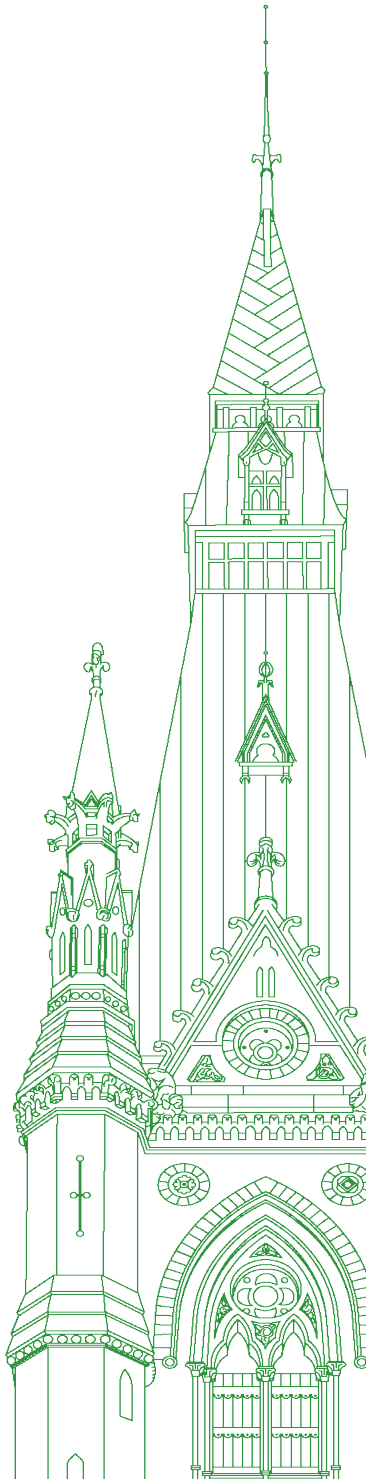

Chair: Ms. Iqra Khalid

# Standing Committee on Justice and Human Rights

**Tuesday, November 17, 2020**

● (1105)

[*English*]

**The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)):** Members, I call this meeting to order. Welcome to meeting number eight of the House of Commons Standing Committee on Justice and Human Rights.

Today we're obviously in a hybrid format. The proceedings will be made available via the House of Commons website. Just so you're aware, the person who is speaking is the one who will be shown on the webcast, rather than the entirety of the committee.

To ensure an orderly meeting, I'd like to outline a few rules to follow.

Members and witnesses, you can speak in your official language. Interpretation services are available for the meeting. You have the choice, at the bottom of your screen, of either "floor", "English" or "French". Please select the language that you need in your headset. Members who are participating in person, those being I and Mr. Cooper, are definitely following our health protocols here with our masks.

Members, before speaking, please wait until I recognize you by name. For those participating virtually, please click on the microphone icon to unmute yourself before speaking, and then do mute yourself once you're not speaking. For those who are in the room, we're following the normal proceedings for our microphones.

As a reminder, all comments by members and witnesses should be addressed through the chair. When speaking, please speak slowly and clearly. Allow time for interpretation. When you're not speaking, your microphone should be on mute.

With regard to the speakers list, Mr. Clerk and I will do our best to maintain a consolidated order of speaking for all members, whether you're participating virtually or in person. When you're participating virtually, I would appreciate it if you could use the "raise hand" function on your Zoom so that I can see who has their hands raised. The person who raises their hand first basically gets to go first. I will make sure that Mr. Cooper is kept on that list as well, as he's appearing in person.

Before we move to the clause-by-clause consideration of Bill C-7, I'd like to get the committee's consent for the small budget of $4,125 that has been prepared in relation to the study of this bill. You all got a copy yesterday. It was sent by Mr. Clerk. The budget will pay for the phone lines necessary for the holding of hybrid meetings and for meals and beverages and the headsets sent to witnesses.

I ask members for their agreement in passing this budget. You can show me a thumbs-up, if that's good.

**Some hon. members:** Agreed.

**The Chair:** I see that everybody's thumbs are up. That's perfect. Thank you very much for that.

[*Translation*]

**Mr. Luc Thériault (Montcalm, BQ):** Madam Chair, what I'm about to say may be very optimistic.

If the meeting ends early, there should be a five-minute break before the clause-by-clause study begins so that my colleague Mr. Fortin can join the group. I'll leave the meeting at that time. Please don't cry.

[*English*]

**The Chair:** Yes, of course, Monsieur Thériault. If the meeting ends earlier than one o'clock—and I quite honestly doubt that it will—you're most welcome to have yourself replaced by Monsieur Fortin. Thank you for flagging that for me in advance. I appreciate it.

I'd like to welcome our witnesses today, our government officials who will assist us in our clause-by-clause study with our technical questions.

From the Department of Justice, we have Joanne Klineberg, acting general counsel, and Caroline Quesnel, counsel, criminal law policy section. From the Department of Health, we have Abby Hoffman, senior executive adviser to the deputy minister; Sharon Harper, director general, strategic policy branch; and, Karen Kusch, senior policy adviser, strategic policy branch.

As a note to members, these witnesses are here to answer any technical questions you may have with respect to any of the amendments that we're discussing today.

Right before we go into clause-by-clause consideration—I know Mr. Manly mentioned this—I will mention that we received two amendments. I want to make sure that you have them in your amendments package this morning. There was an amendment by Mr. Manly that replaces PV-4, which is on page number 18 in your package, and an amendment by Mr. Thériault that replaces BQ-4, which is at page 21 in your package.

At this time, does anybody have any questions around those two changes?

**Mr. James Maloney (Etobicoke—Lakeshore, Lib.):** I'm sorry, Madam Chair. When were these circulated?

**The Chair:** It would have been this morning, and they would have been circulated by Mr. Clerk.

**Mr. James Maloney:** Okay, thank you.

**The Clerk of the Committee (Mr. Marc-Olivier Girard):** I can resend them.

**The Chair:** Can you?

On that, Mr. Maloney, we're going to try to resend them so that everybody has them.

If anybody does not have them, let us know so that we can direct you.

Madam Findlay, I see that your hand is raised.

**Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC):** On that same point, I would like to have them recirculated to make sure I have the latest.

**The Chair:** Absolutely.

Mr. Clerk is doing that right now, *et voilà*.

Has everybody received them now?

I'll clarify again that PV-4 replaces page 18 in your package, and BQ-4 replaces page 21 in your package. Now, if everybody has made those replacements, give me a thumbs-up so we can continue with clause 1.

**Hon. Kerry-Lynne Findlay:** I haven't received them yet.

**Mr. James Maloney:** Neither have I.

**The Chair:** Okay. We'll give it a few minutes.

**The Clerk:** Oh, I think it's still in my outbox.

**The Chair:** Oh, M.O.G. is not on top of the ball today. What's going on?

● (1110)

**The Clerk:** It's network issues, Madam Chair.

**The Chair:** It was sent at 9:11 a.m. this morning, so perhaps you could look in your inboxes.

Mr. Moore, you have your hand raised as well.

**Hon. Rob Moore (Fundy Royal, CPC):** Yes, I just have a procedural point on the amendment.

We had a deadline for submitting them, and then we kind of got a flurry of amendments last night. What's the process on that? I'm happy to see amendments, but we, the Conservatives, tried to get ours in by a deadline that you had proposed. I know that someone could move an amendment from the floor, so it's helpful to have it in advance, but what are the mechanics on that, Madam Chair?

**Mr. Philippe Méla (Legislative Clerk):** Mr. Moore, can you hear me?

[*Translation*]

**Hon. Rob Moore:** Yes.

[*English*]

**Mr. Philippe Méla:** Thank you.

This is the legislative clerk here, Philippe Méla.

Yes, you're right. There is a deadline that was set, and thank you for sending your amendments on time. That allows us to look at them procedurally and also to prepare the package of amendments and prepare the agenda so that everybody has the same documents to follow the meeting properly and it's organized. It's easier to do it that way than having amendments coming from the floor.

With regard to your question relating to the amendments that we received last night, generally speaking, we prefer to circulate them ahead of time so that members can have a look at them. Also, for us, it's easier to put them in the package ahead of time rather than having them moved from the floor. That's the reason they were circulated this morning.

**The Chair:** Thanks for that.

**Hon. Rob Moore:** Would we get extra credit for having put ours in on time, or how does that work?

**The Chair:** Thank you for that, Mr. Moore.

Absolutely, there's a lot of extra credit to be given to you and in fact to the whole team and everybody who got their amendments in on time.

In doing it virtually, it's logistically a lot easier when members have the amendments in front of them so that all the language is conveyed properly as we're doing virtual moving of motions from the floor. It makes it a lot easier for us to have them before us.

**Mr. James Maloney:** Madam Chair, I believe I just received the new email. It's the body of the email, but I don't think it has the actual attachments.

**The Clerk:** I will send it with the attachments.

**The Chair:** It is being resent with the attachments.

**Mr. James Maloney:** Okay, thank you.

**Hon. Kerry-Lynne Findlay:** I found it from 6:11 this morning for me.

**The Chair:** Oh, it was 6:11. Wow. That's right; your time zones are different.

**The Clerk:** Now they're out of the outbox.

**The Chair:** Out of the outbox and into the fire.

Could members confirm with me that they received the new email with the attachments?

Mr. Virani, Mr. Manly, Mr. Kelloway, Mr. Lewis, Mr. Sangha, Mr. Garrison, Mr. Maloney and Madam Findlay, you have all received them. Perfect.

Again, just to confirm, PV-4 replaces page 18 and BQ-4 replaces page 21 in the package you would have received.

Pursuant to Standing Order 71(1), consideration of the preamble will be postponed until the very end.

We have a number of amendments. The first one is NDP-1.

Mr. Garrison, would you like to move NDP-1?

● (1115)

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Thank you very much, Madam Chair.

You've suggested that we are just moving the amendment at this point, so I will move NDP-1 for the consideration of the committee. It deals with the question raised by the Canadian Nurses Association.

**The Chair:** You can speak to it more than that, Mr. Garrison, if you like.

**Mr. Randall Garrison:** Okay. Thank you very much.

The only substantive change here is to add words to an existing proposed subsection at the end—the drafters felt it needed to be there, I guess, in the fullness of the clause—about whether or not the person requires the information. The Canadian Nurses Association talked with us about it and included it in their brief, discussing how nurses and other professionals, including social workers and psychiatrists, often have intimate conversations with patients about their options and about the challenges they are facing. They wanted to make sure that none of the nurses, psychiatrists, social workers or other professionals would be at risk for prosecution under this law for discussing, as an option, medical assistance in dying, whether or not the person specifically requested that discussion or they were simply talking about the kinds of challenges they were facing and the options that were in front of them.

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

Madam Findlay, is your hand raised on this point?

**Hon. Kerry-Lynne Findlay:** No.

**The Chair:** Okay.

I have to rule on this amendment, which seeks to amend section 241 of the Criminal Code related to suicide. As *House of Commons Procedure and Practice*, third edition, states on page 771, "...an amendment is inadmissible if it proposes to amend a statute that is not before the committee or a section of the parent Act, unless the latter is specifically amended by a clause of the bill."

Since section 241 of the Criminal Code is not being amended by Bill C-7, it is therefore my opinion that this amendment is inadmissible at this time.

We will now go on to Bloc Québécois amendment 1.

Mr. Thériault, if you would like to move this—

**Mr. Randall Garrison:** Madam Chair, I do have my hand up.

**The Chair:** I'm sorry. I didn't see that. Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** I think the intention of that rule of the House is to make sure that we deal with the issues that are dealt with in the bill.

Clearly, this amendment deals with issues that are before the committee, and clearly, it deals with issues of concern in Bill C-7, so I would like to challenge the chair on the ruling that this amendment is beyond the scope of the bill.

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

In this instance, the question is whether the ruling of the chair shall be sustained.

It comes to a vote.

(Ruling of the chair overturned: nays 6; yeas 5 [*See Minutes of Proceedings*])

Okay.

In that case, then, we will go to debate on NDP-1.

● (1120)

**Mr. James Maloney:** Madam Chair, I have a point of order.

**The Chair:** Go ahead, Mr. Maloney.

**Mr. James Maloney:** I expect that this isn't the last procedural discussion or point that we're going to be dealing with today or during the course of these amendments. I'm not in the room, although I understand one of the legislative clerks is there with you. Perhaps he or she could provide some clarification on this issue just so that we don't have to do this twice.

**The Chair:** Thanks, Mr. Maloney.

Go ahead, Mr. Clerk.

**Mr. Philippe Méla:** I'm not sure what the question is exactly, Mr. Maloney.

**Mr. James Maloney:** I'm assuming there was some background to the ruling initially, but since we voted on it, perhaps my question is more properly phrased this way: Is our vote overturning the ruling appropriate, given your interpretation of the admissibility or inadmissibility of the proposed amendment?

**Mr. Philippe Méla:** Yes, I provided the advice to the chair that the amendment be ruled inadmissible. After that it's up to the chair to decide if it is really inadmissible or not, and then the ruling is issued.

After that, once the ruling is issued, the proper course of action, if any, would be to appeal the decision of the chair, as Mr. Garrison did, and then proceed to a vote. If the decision is sustained, then the amendment remains inadmissible. If it's overruled, we proceed to a debate and to the vote, eventually, on the matter.

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

Does that clarify it for you, Mr. Maloney?

**Mr. James Maloney:** I suppose, but if, in your opinion, the original proposal was inadmissible—I understand we voted on it—is there a further step to be taken now to clarify your opinion? What's the remedy from here?

**The Chair:** Given that I made a ruling and it was challenged and then voted on, and my ruling was ultimately denied by the committee members, now what we are doing is debating NDP-1 on its merits.

I encourage members to rely on the department officials to also seek clarification as to what NDP-1 does.

I see Mr. Virani is next on the speakers list. Go ahead, Mr. Virani.

**Mr. Arif Virani (Parkdale—High Park, Lib.):** Thank you for that, Madam Chair.

My understanding is that when we go back in the medical assistance in dying regime to when we enacted Bill C-14, we find there was a subsection added to the Criminal Code. We added subsection 241(5.1) to section 241, and that sets out the offences of counselling and aiding a person to die by suicide. We did that under Bill C-14 in 2016. What that subsection does is clarify that it's not an offence for various health care practitioners, including some who cannot provide MAID, such as social workers, to provide information to a person about the lawful provision of MAID. This amendment seeks to specify that no offence is committed when such information is provided to a person who didn't ask for that information in the first instance.

What I understood is that because Bill C-7 doesn't propose to amend section 241 of the code, as such it is likely outside the scope of the bill. That is, I think, what you were driving at with your ruling. However, given that your ruling has been overturned by the members of the committee, I'm happy to debate the substance of it.

Welcome to the Department of Justice officials and the Department of Health officials. I'll make some submissions, but I'll also invite the lawyers from the Department of Justice to opine on it as well.

The first point is simply that we all understand the important work that all of the practitioners are doing, be they nurses or physicians. That should be stated on the record. We appreciated the submissions from the Canadian Nurses Association in that regard. Medical regulators or colleges are the ones to turn to when reconciling the competing interests from a medical practice point of view. That's the first point.

However, here we're dealing with the criminal law, and that's what Bill C-7 is all about. From my perspective, there's currently no current problem to address because when you trigger the criminal law, it's not actually the providing of information but the intention of the person who is doing the providing that is at issue. Merely providing information about MAID one way or the other doesn't amount to counselling or abetting somebody to die by suicide. Counselling or abetting somebody to die by suicide requires an intention to encourage or persuade someone to die by suicide or MAID, whether or not they actually carry it out, which is important. Whether or not a patient requested information about MAID is not directly relevant to the guilt or innocence of somebody who provides that information. The intention of the person who provides the information is the critical factor.

On that basis, I don't think this amendment is addressing an issue that arises properly under the scope of the criminal law as it is currently constituted, because it is about the action of the individual as opposed to the intent of the individual. The intent of the individual is also critical to the evaluation of the crime, if a crime is deemed to have been committed, and that crime can be committed independently of whether the person actually passes or not.

Those would be my perspectives. I'm wondering if Ms. Klineberg or Ms. Quesnel might want to weigh in on this from a departmental perspective.

● (1125)

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

To the department, could you please comment?

**Ms. Joanne Klineberg (Acting General Counsel, Department of Justice):** Yes, thank you very much, Madam Chair.

From a Department of Justice point of view, we would agree with the analysis just provided by Mr. Virani and add a few small nuances to it. I think we would say that it may, in fact, give a false impression to some practitioners that they are able, in any circumstances, regardless of what their intention is, to share that information, so there's one danger in making an amendment that is not legally necessary and doesn't actually change the scope of the offence because of the requirement for an intent to persuade or encourage.

The other concern would be that if the medical regulators take up this issue and set down some clear rules, there would be the potential for those rules to come into conflict with what is in the Criminal Code. That might be another consideration to take into account.

**The Chair:** Thanks very much for that.

I have Mr. Moore next on the speaking list. Go ahead, Mr. Moore.

**Hon. Rob Moore:** Thank you, Madam Chair.

I guess I had raised my hand back when the question was raised about how we proceed in matters that have been ruled out of order. I think that's been dealt with, but I would say, as always, that it's on a case-by-case basis and a ruling-by-ruling basis.

Speaking now to the amendment that's been moved, maybe I could ask Mr. Garrison his thoughts on it. I was quite profoundly impacted by the testimony of Mr. Foley, who appeared at our committee. I don't know if all members have had the opportunity to listen to the recordings that he made as doctors were basically, as it sounded to me, encouraging him to consider MAID in the context of what it was going to cost him to stay in the hospital. They said in the recording, “Look, the per diem rate for you to stay at this hospital is $1,500 per day.”

Recognizing that the committee has decided to consider this particular amendment, I just cannot contemplate a situation in which we would want to say that the information could come whether or not the person requests the information. I think someone would be in a troublesome area there. I don't think we want to send a message that even if a person expressly does not want to consider MAID, health care providers are going to be in a position to keep bringing it up, and that's what appears to have happened with Mr. Foley in this recording. I don't know if Mr. Garrison heard the same testimony I did, but this amendment, unless there's a further explanation he could provide, runs completely counter to the very moving testimony of Mr. Foley, who did a great job presenting at our committee. Maybe we can get some further clarification on that, but my inclination would not be to support this particular amendment.

● (1130)

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

Luckily, Mr. Garrison is next on the speaking list. Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I just need to add one preface here, as you did not give me a chance to state the reasons for my challenge to the chair.

I will point out that section 241 of the Criminal Code is in fact amended several times by Bill C-7. That was my basis for suggesting that additional amendments to section 241 should be in order.

On the question of whether or not this is a necessary amendment, I know the narrow legal arguments saying that nurses or other health professionals or social workers are covered under the strict letter of the law. However, it is also true that we've had many accusations made about specific cases and about the role of health care professionals in discussing medical assistance in dying with patients.

In response to Mr. Moore, I would say that I am very cautious about judging evidence presented before the committee that deals with specific cases when we only hear one of the parties to that case. If in fact there are serious allegations, as have been made several times before the committee, of inappropriate actions by health care professionals, those should have been raised with medical professional bodies or in extreme cases with the police, and dealt with in a way that allowed a chance to have both sides of the story considered by an impartial body.

Again, I believe that there is a risk of constraining the conversations that health care professionals, including nurses and psychiatrists, can have with their patients in the way that the bill is worded now, and that this amendment is simply a further clarification of the ability of professionals to discuss fully the options with their patients.

**The Chair:** Thanks for that, Mr. Garrison.

I'm going to turn to our legislative clerk to clarify what portion of Bill C-7 is being amended in the Criminal Code.

**Mr. Philippe Méla:** Thank you, Madam Chair.

The bill amends section 241.2, which is a different section of the Criminal Code from section 241, and sections 241.2 and 241.31, and that's it. Those sections of the Criminal Code are different from section 241.

**The Chair:** I have Mr. Kelloway next on the speaking list.

**Mr. Mike Kelloway (Cape Breton—Canso, Lib.):** Thanks Madam Chair.

Hello, colleagues and officials.

From a department point of view, are there are other elements—beyond what we've heard through Mr. Virani's question and answer—that make this inadmissible? I'm curious to do a deeper dive on other elements that haven't been brought up so far that would bring to light the nature of the opinion being inadmissible.

**Ms. Joanne Klineberg:** I don't think the department would have anything to offer on the question of the inadmissibility of the motion.

**The Chair:** I have Madam Findlay next on the speaking list.

**Hon. Kerry-Lynne Findlay:** I have a question and then a comment.

With respect to the question, on the discussion we just had around admissibility, I want some clarification. It relates not just to the present amendment but could relate to others now and in the future.

I would have thought that when we are dealing with a section of the Criminal Code, it would be the whole section. Are you telling us that unless an amendment relates to the specific subsection within a section, we cannot entertain it? That is somewhat of a surprise to me.

**Mr. Philippe Méla:** Yes, you would be right in saying that, when a section is opened, you can deal with any part of the section. Unfortunately, section 241 is not opened by the bill. There are other sections. Section 31 is a different section of the Criminal Code. It's not a subsection of section 241. If you look at the title in the Criminal Code, section 241 is called “Suicide”. If you go to the next section of the Criminal Code, which would be section 241.1, the heading for that one is “Medical Assistance in Dying”. They are two different sections. Section 241 is not being dealt with by Bill C-7.

● (1135)

**The Chair:** I hope that answers your question, Madame Findlay.

**Hon. Kerry-Lynne Findlay:** Yes, it does.

My concern is along the same lines as Mr. Moore's.

We also heard testimony from Taylor. She's a young woman in her twenties. She ended up being diagnosed as having pneumonia. The normal course of treatment for that would be oxygen, yet the practitioner was discussing MAID with her rather than giving her the oxygen she needed for her pneumonia. In any other normal circumstances, a young woman presenting herself to emergency in her twenties would not have to go through all that before she was given oxygen for something like pneumonia.

Mr. Foley's testimony was very compelling as well, but in some ways I was more shocked by what Taylor had to say. She was someone who certainly did not want to enter into the discussion at all. She wanted treatment for her current situation and eventually got it.

I'm very concerned about there being no onus on any practitioner in the sense that.... I don't think they should bring it up. It should be patient-initiated. If it's patient-initiated, then there are rules around the form of the conversation and the nature of that engagement. When someone is coming in to the care of caregivers in the health system for something totally unrelated, yet is being judged by that practitioner as someone who maybe should just end their life, I find that very difficult.

This is not an amendment I could support for that reason.

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

I have Mr. Moore next on the list.

Go ahead, Mr. Moore.

**Hon. Rob Moore:** Thank you, Madam Chair.

I guess some of the commentary has been not on the amendment itself but on the process we go through if an amendment is ruled out of order. I would like to get some clarity on this maybe from the legislative counsel, but ultimately this committee decides what amendments go through irrespective of that ruling if the ruling is overturned. I don't know if it's an attempt to maybe revisit it or to reargue it, but ultimately if the committee says in spite of the chair's ruling we would like to deal with this amendment, then it's within the committee's power to do so. Is that a correct understanding?

**The Chair:** You're absolutely right, Mr. Moore, but I will pass it on to Mr. Clerk to give more information.

**Mr. Philippe Méla:** Thank you, Madam Chair.

Yes, you would be right, Mr. Moore. It's always the prerogative of the committee to decide what the committee wants to achieve and do, regardless of the rules. However, any amendments that are ruled inadmissible in committee would end up in the report that would be presented to the House for the reprint of the bill. If a member would rise on a point of order in the House at that point before the start of report stage, the Speaker would probably come to us and ask the same question regarding the amendment. Is the amendment inadmissible or admissible?

Of course, we would give the same analysis that we provided to the chair of the committee to the Speaker of the House. Without presuming what could happen in this case, what could happen and what has happened in the past is that the Speaker of the House could simply rule that the amendment was indeed inadmissible and still is at report stage, remove it from the report from the committee and order a new reprint of the bill. The amendment would therefore be eliminated from the bill. That's the second step past committee stage.

● (1140)

**The Chair:** Does that answer your question, Mr. Moore?

**Hon. Rob Moore:** That's great. Thanks.

**The Chair:** Thank you.

I have Mr. Maloney next on the speaking list.

Go ahead, Mr. Maloney.

**Mr. James Maloney:** Thank you, Madam Chair.

Mr. Moore, was addressing the same point I was going to raise. The only thing I might add is that, in anticipation of this maybe happening again during the course of our discussions, it might be helpful to have the clerk or the legislative clerk provide us with the information in the analysis he provided to you in insisting you make a ruling before we vote to overturn it. I'm not suggesting that anybody's vote would have been different or the outcome of the vote would have been different in this particular case. I just think it's best that we're all fully informed, or as fully informed as possible, before we vote to overturn a ruling of the chair.

**The Chair:** Thank you very much for that, Mr. Maloney. I'll make sure that in any future rulings we do just that.

Ms. Lewis, I have you next on the list. Go ahead.

**Mr. Chris Lewis (Essex, CPC):** Thank you, Madam Chair.

Good morning, colleagues and members of the committee. I have a couple of comments and then a question for the legislative clerks.

Mr. Garrison, specific to you, sir, with regard to this amendment I know that during your second set of remarks you mentioned the risk of constraining conversations, which I find a little bit mind-boggling only because I believe you voted, sir, against additional meetings specifically on the motion I put forward to allow for more witnesses with disabilities, including indigenous. They were very interesting comments on that front.

Specifically to my question, Madam Chair, through you to the legislative clerks, I believe I understood the answer with regard to the Speaker getting “final say” but I'm wondering if it would also not go to the members of the House to rule on that. If I could please get some clarification I would appreciate it.

**The Chair:** Thanks, Mr. Lewis.

I'll just remind you to not address members directly. Just to keep the decorum of the committee, please refer to me instead.

**Mr. Chris Lewis:** My apologies to the committee member.

**The Chair:** Thank you. I appreciate that, Mr. Lewis.

I will just refer it to our legislative clerk then.

**Mr. Philippe Méla:** Again, to restate what I stated just a minute ago, if the amendment were to be adopted today, this amendment would be placed in the report that will be tabled in the House at a later date. At that point, a member of Parliament could raise a point of order to the Speaker of the House and say, “Mr. Speaker, I believe there are some amendments that were ruled inadmissible in committee that are presently in the report.”

At that point, the Speaker would turn to us for our analysis of the said amendment, an analysis that would be the same as the one we provided to the chair of the committee. At that point, it would be up to the Speaker to decide if, indeed, basically, he agrees with us or not. If he does, usually the course of action is to remove the amendment from the report and then ask for a reprint of the bill without the amendment in it.

**The Chair:** Thank you for that. We'll go to Mr. Garrison.

You're next on my list, Mr. Garrison. Please go ahead.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

In response to the question from Mr. Lewis, he knows full well that I have argued very strongly that all of these issues need to be aired before a special committee of the House in the statutory review, and in no way have I suggested that these issues should not be discussed further.

That, of course, is quite a different issue from the one I was referring to, and perhaps in my remarks I should have included not to constrain “lawful” conversations. In the advice that we heard from department officials, what they have said is that this amendment does not change the law in this case. It simply clarifies that having lawful conversations between medical professionals and patients is allowed, whether or not they have initially raised the question of medical assistance in dying.

Again, the chill that we're placing here on the relationship between patients and those who provide their care is what I'm trying to address, and I'm trying to make sure that relationship is not damaged inadvertently by a misunderstanding of what a lawful conversation is.

Thank you.

● (1145)

**The Chair:** Thanks very much for that, Mr. Garrison.

Having exhausted the speakers list, I'll call the question on NDP-1.

Is there any will for a recorded vote or is it on division?

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** I'd like a recorded vote, please, Madam Chair.

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

(Amendment negatived: nays 9; yeas 2 [*See Minutes of Proceedings*])

We'll now move on to BQ-1.

Mr. Thériault, do you want to speak to that or move it, please?

[*Translation*]

**Mr. Luc Thériault:** Yes, Madam Chair. Here it is:

> A person who requests medical assistance in dying is, until the moment that medical assistance in dying is provided, entitled to the same palliative care that they would be entitled to had they not made the request.

I'll try to address the key issues in our discussions.

When a patient chooses to request medical assistance in dying, they should be entitled to palliative care. Stakeholders came and told us that, in palliative care, sometimes people change their minds because they're well treated. I'm talking about optimal palliative care. It would be a shame if a patient or a dying person who has requested medical assistance in dying were deprived of palliative care at home, in a hospital or in a hospice because of a lack of resources. This possibility exists.

Proponents of palliative care told us that people who receive optimal palliative care, which constitutes support until death, don't seek medical assistance in dying or they change their decision. The dying individual is faced with a choice. However, to make that choice, the individual must have access to both options. Therefore, I think that it's important to make this clear.

Of course, the provinces and territories are responsible for managing end-of-life care. However, within this exculpatory measure that gives a person the right to receive medical assistance in dying, whether or not their death is reasonably foreseeable, it would be worthwhile to establish at the outset Parliament's intent in terms of a continuum of care, given the reality on the ground, all the concerns and the polarization seen during this debate. That's the purpose of the amendment.

I fully understood the explanations given earlier. Our debate regarding Mr. Garrison's amendment led to a good procedural clarification. If we hadn't had a debate and rejected your decision, we might not have received all these clarifications right now.

I hope that I've clearly explained the purpose of the amendment.

● (1150)

[*English*]

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

I do have a ruling on this. Bill C-7 amends the Criminal Code to render medical assistance in dying more accessible to patients requiring it, but it does not address the level or quality of palliative care as is contemplated in this amendment. This is a new concept not envisioned by the bill. *House of Commons Procedure and Practice*, third edition, states on page 770:

> An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

Therefore, as stated, I rule this amendment inadmissible, and I will refer to the legislative clerk to explain a bit further for clarity.

[*Translation*]

**Mr. Luc Thériault:** I do want further clarification. What bothers me about your decision is your reference to the quality of care. This isn't about quality of care, but about a right to palliative care.

[*English*]

**The Chair:** I was just referring this to our legislative clerk to provide clarity on this ruling.

[*Translation*]

**Mr. Philippe Méla:** Thank you, Madam Chair and Mr. Thériault.

Bill C-7 doesn't address palliative care in general. It mainly addresses medical assistance in dying. As the chair pointed out, adding the concept of palliative care, which would be debated in terms of access to the same level of quality or the same level of palliative care, would go beyond the scope of the bill.

**Mr. Luc Thériault:** Okay.

[*English*]

**The Chair:** Thank you.

I see a number of hands raised. Is this specific to my ruling or to this amendment?

Mr. Garrison, you're at the top of my list. I'll just test the waters with you.

No...?

Mr. Virani.

**Mr. Arif Virani:** Madam Chair, it's substantively about the amendment and the fact that we're dealing again with the criminal law here. It's not germane to your ruling, but it's germane to the amendment.

I think it's not the purview of this legislation—nor probably is it the purview of the federal government—to wade into the type or quality of care, or access to certain types of health care at the provincial level. In my view that subverts the division of powers. I think it should be defeated in any event. I'm not going to opine on your ruling about admissibility.

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

Mr. Moore, is that for the same...?

**Hon. Rob Moore:** Yes, it's on the amendment, Madam Chair.

My concern with this is that, in fact, this has everything to do with palliative care. The testimony we heard on the bill at committee certainly was that the quality of palliative care can have a direct impact on a person's approach to assisted dying.

Witnesses told us about a number of factors that go into that decision. Palliative care was certainly front and centre as a significant factor. In fact, when we talk about a person's choice to pursue assisted dying or not, it was presented to us that it's not a true choice if a person does not have access to palliative care, so I'd disagree.

I think this particular provision amends the Criminal Code. That was what was required when we brought in Bill C-14, and indeed in Bill C-7. It was required that some provisions in the Criminal Code be amended when it comes to counselling someone. The legislation touches on any number of factors dealing with consultation and dealing with the expertise of individual physicians.

It's quite clear to me that this particular amendment should be ruled in order.

● (1155)

**The Chair:** Madam Findlay, I have you next on the last.

**Hon. Kerry-Lynne Findlay:** I am a little confused, to be honest. I am just trying to understand this.

This amendment speaks to palliative care. We heard a lot of testimony on that. In the section that the amendment is sought for, it does speak to being eligible for health services funded by any government in Canada. The law as it is already speaks to the type of health care available. This is just being a little more specific.

I realize I am a new member of this committee since prorogation, but when we considered Bill C-3 as a committee, concepts were added on systemic racism based on committee testimony, some of which I had not heard as a present member of the committee. People kept referring to testimony of last February. It certainly wasn't in the original text and you didn't rule that inadmissible.

I am really confused here. This seems to me to be an amendment within the scope of health services funded by a government in Canada. We went way further, in my opinion, when we not only entertained, but adopted changes in Bill C-3.

I wonder if the clerk, or you as well, could comment on that.

**The Chair:** Thank you for that, Madam Findlay. Our legislative clerk did go into some detail with the explanation. I can refer this back to the legislative clerk, but you all have the option of challenging my ruling. If that is the case, you are welcome to do so. I will refer this to the legislative clerk to provide further clarification.

**Hon. Kerry-Lynne Findlay:** I understand that, but I didn't want to challenge the chair until I heard from the clerk again on my point about health services funded by a government in Canada.

**The Chair:** Go ahead, Mr. Clerk.

**Mr. Philippe Méla:** You're referring to a section of the act that is speaking about palliative care. However, what you have to look at is the bill. What is the scope of the bill? The scope of the bill was adopted at second reading by the House. If you look at the bill, rather than the act, you would see that the level of palliative care that a patient would have access to is not dealt with in the bill. That's the problem here.

It's not palliative care, which is indeed dealt with, as you pointed out, in the Criminal Code. It's the fact that it's not dealt with, even though witnesses came and talked about it. It's not addressed in the bill as far as the level or type of palliative care that you would obtain. That's what makes it inadmissible.

**Hon. Kerry-Lynne Findlay:** I would challenge the chair's ruling on this. When I think back to the testimony—which we didn't have enough of, frankly—palliative care was at the centre of much of the testimony we heard. With respect to Bill C-3, the social context was given as the reason to include a much broader range of discussion.

● (1200)

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

Should the chair's ruling be sustained?

(Ruling of the chair sustained: yeas 7; nays 4)

The ruling is sustained. I ruled the amendment inadmissible, and it remains as such.

Mr. Moore, are you going to speak to CPC-1? Is that why you are raising your hand?

**Hon. Rob Moore:** No, it's not, Madam Chair. We've heard a great deal of discussion around palliative care. I respect the reasons you came to your ruling. To be very clear, subclause 1(7) of the bill mentions palliative care. It says:

> ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care and has been offered consultations 40 with relevant professionals who provide those services or that care;

How can we on one hand say the bill does not deal with palliative care, when palliative care is mentioned in the bill?

**The Chair:** Mr. Moore, my understanding, as we've had quite a healthy discussion on this....

I have ruled and the ruling was sustained. I would like to carry on, if that's okay.

Mr. Moore, I'll come to you to move CPC-1 at this time.

**Hon. Rob Moore:** Actually, I think it's important that we have clarity on these things. People have taken the time to make amendments. Some of the rationale that's being used to exclude them runs completely counter to what's in the bill. I think it's important that we have some clarity on that. It impacts how we move forward.

**The Chair:** We have answered all questions by all members, and at this time I have ruled. We voted on the ruling. We need to go forward. Maybe we'll answer further questions when we get to CPC-1.

I'll ask you again, Mr. Moore, if you'd like to move CPC-1 at this time.

**Hon. Rob Moore:** Yes, I would like to move CPC-1.

**The Chair:** Go ahead, sir.

(On clause 1)

**Hon. Rob Moore:** CPC-1 is being moved because of some of the significant testimony we heard from health care providers. I reference a letter that was sent to committee members that was signed by, I think, upwards of 900 health care providers, many of whom are concerned about the relationship between a patient and their doctor, which is the ultimate trust relationship. There's no more important relationship, certainly, that's not a family relationship, than the relationship between a patient and their doctor.

Many doctors, with this significant expansion to the assisted dying regime, have raised with us their concerns about the provision of assisted dying as it relates to them in their profession. These are hard-working individuals who help make our community and our society better. They help to heal people. That's what they do. That's what they want to do, but they're concerned about the impact of this legislation on their ability to do that, and principally on the relationship they have with their patients.

This amendment, CPC-1, would provide for conscience protections for physicians as it relates to this expanded assisted dying regime.

● (1205)

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

At this time, I would like to give a ruling on CPC-1. Bill C-7 amends the Criminal Code to render medical assistance in dying more accessible to patients requesting it. CPC-1, this specific amendment, seeks to create a new offence against a person who would compel a health professional to offer the service of medical assistance in dying. This is a new concept that is not envisioned by the bill.

*House of Commons Procedure and Practice*, third edition, states the following on page 770:

> An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

In my opinion, amendment CPC-1 is creating a new concept that is beyond the scope of the bill. Therefore, I rule this amendment to be inadmissible.

This ruling also applies to CPC-10, but we'll get there shortly.

I will give the floor to the legislative clerk to explain this a little further for members' clarity as well.

**Mr. Philippe Méla:** Thank you, Madam Chair and Mr. Moore.

CPC-1 basically adds to proposed new section 241.5, which is described in CPC-10 on page 19 of the package.

As you point out, it basically criminalizes the activity of compelling health professionals to provide medical assistance in dying. The bill does not create a criminal regime. Unlike Bill C-14, which was creating a new criminal regime for all sorts of activities related to medical assistance in dying, Bill C-7 doesn't do that. Therefore, the amendment would go beyond the scope of what the bill does.

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

Mr. Moore, is your hand raised on this specific matter?

**Hon. Rob Moore:** Yes, it is. It's very clear that this amendment deals with something that is very topical to Bill C-7. It deals with the physician-patient relationship. It's a necessary amendment, in light of the testimony we heard on Bill C-7, so I do need to challenge the chair's ruling in this regard.

**The Chair:** Thank you for that, Mr. Moore.

We'll go to the clerk to call the question on whether to sustain the ruling.

(Ruling of the chair sustained: yeas 6; nays 5)

The ruling is sustained.

We will now carry on to our next amendment in the package, which is PV-1. Because it is moved by Mr. Manly, my understanding is that all of these PV amendments are deemed moved in the committee, because he is not a permanent member.

Mr. Manly, I'll turn to you to speak to PV-1 at this time.

● (1210)

**Mr. Paul Manly (Nanaimo—Ladysmith, GP):** Thank you very much, Madam Chair.

The amendment is with regard to people who are seeking MAID when:

> (c) they experience enduring physical or psychological suffering that
>
> (i) is caused by that illness, disease or disability or that state of decline,
>
> (ii) is intolerable to them and cannot be relieved under conditions that they consider acceptable, and
>
> (iii) is not the result of deprivation, social disadvantage, lack of support or perceived discrimination.

In my discussions on MAID with the local disability community, there were concerns raised. I was sent this amendment by the executive director of the Nanaimo Association for Community Living, Graham Morry. This was also an amendment that came through Inclusion BC.

In my community, in my office, every day I see people who are homeless. There is a large homeless camp behind my office, and when I go by I see people in wheelchairs and walkers, and I know there are disabled people in that camp. The health issues they face continue to degrade their health because of their deprivation, because they are homeless. People in my community wanted to ensure there was more of a safety net in place for people with disabilities.

I believe this bill does protect people with disabilities, but the language needs to be clearer, so that people feel satisfied they're protected.

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

Mr. Virani, go ahead on PV-1.

**Mr. Arif Virani:** Thank you very much, Madam Chair.

Mr. Manly, welcome and thank you for the contributions you're making to the debate by proposing amendments.

I'll confess that this is a difficult one. Obviously, all of us have some sympathies for the issues you're highlighting—deprivation, social disadvantage, lack of support and perceived discrimination. There's no doubt about that, but the concern I would outline is about the autonomy of the individual.

I don't deny that the suffering people experience can be exacerbated by the factors you outlined, but what I'm concerned about is that if we were to proceed with this kind of amendment, it would effectively bar access to MAID for persons who are suffering intolerably if they also happen to be suffering as a result of their discrimination or social disadvantage. That, to me, would undercut their autonomy and dignity.

We have to address the ills you're identifying, there's no doubt. Those stakeholders who communicated with you are highlighting very important, pressing causes, but I think the way we address those ills is through societal changes and through additional supports, not by denying people in that situation access to MAID if they are otherwise eligible, make a voluntary request and give informed consent.

On that basis, I would not be supporting this amendment, but I thank you for offering it up.

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

I have Mr. Moore next on the list, on PV-1.

**Hon. Rob Moore:** Thank you, Madam Chair, and thank you for this amendment.

I think this is a sound amendment. It speaks to some of the testimony we heard. I know I keep referencing back to the testimony, because that's important in how we do our job as members of Parliament and members of this committee. We had very limited testimony, but in the testimony we heard for four days, and then in the written submissions that have come in, we heard over and over that lack of support...someone cannot make a true decision. These decisions aren't made in a vacuum, so their choice is not a true choice if, as referenced in our amendment, the palliative care options aren't there.

This amendment says, “enduring physical or psychological suffering that...is not the result of deprivation, social disadvantage, lack of support or perceived discrimination.” I think this is an amendment that is well thought out. I'm glad it was brought forward. Based on the witness testimony that we've heard, particularly around vulnerable Canadians, Canadians who don't have some of the opportunities that we may have, I think this is one worth supporting.

Thank you.

● (1215)

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

I have Madame Findlay, Mr. Garrison, then Mr. Cooper.

Go ahead, Madame Findlay.

**Hon. Kerry-Lynne Findlay:** Thank you, Madam Chair.

I think this is a well-thought-out amendment, and I thank our colleague Mr. Manly for his contribution here.

In reference to earlier statements that we all have some sympathies, I have a great deal of sympathy, I think, listening to persons with disabilities in particular who came forward and spoke to us, and doctors who have the care of vulnerable patients. There are socio-economic elements here that should not be the reasons people make these choices. Lack of support and lack of advantage should not be the reasons to implement MAID.

Also, in earlier statements, my colleagues were talking about autonomy yet highlighting the competing tensions. If we truly believe in the autonomy of people to make these decisions, they should be able to make them themselves, about the competing tensions or their competing rights. Which of their rights do they feel they want to emphasize and which do they want to exercise in the options available? There should be two options available.

The testimony we've heard on these issues is very compelling to me. When we talk about societal changes, the people who are in the front line of this—the health care professionals, the patients and future patients—are the ones dealing with this directly, not us. We're legislators and we're trying to look at it in an overall context. We all want to relieve suffering, but if we truly believe in autonomy, then that means that we as a society, as government, as legislators and as compassionate Canadians, should be in favour of an amendment like this, which makes it very clear that these decisions should be free of any kind of deprivation or social disadvantage, so I'm in favour of it.

Thank you.

**The Chair:** Thanks, Madame Findlay.

We'll go to Mr. Garrison and then Mr. Cooper.

Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** Thank you, Madam Chair.

I know that this amendment arose from concerns in the disability community, and I have had many discussions with members of the disability community locally, provincially and nationally on this amendment in particular. It is a very broad amendment. While it arises from the disability community, it would apply to any and all marginalized communities. It is not exclusive to the disability community.

I think what this amendment inadvertently does, in the broad way it's stated, is potentially deny autonomy to others to make decisions about the end of their life.

While I absolutely believe we have to have further discussion of the very valid concerns of the disability community and our large failures to provide supports to that community—as I've said many times, I believe that needs to go on in a special committee of the House to examine those broader issues—I think this amendment inadvertently, in modifying the tests to receive medical assistance in dying, is unconstitutional and would be ruled so by the courts because of its very broad impact on members of groups other than those with disabilities.

In the end, I think it also inadvertently denies autonomy to people with disabilities. We must endeavour to make sure that the choices they have before them are real and that they receive a quality of support to lead a good life. In the end, however, I believe this amendment would affect the autonomy of both disabled people and other marginalized people in our society to make decisions about how their life ends—not about ending their life, but about how it ends—and for that reason I am opposed to this amendment.

**The Chair:** Thanks, Mr. Garrison.

We'll now go to Mr. Cooper.

Go ahead, Mr. Cooper.

**Mr. Michael Cooper:** Madam Chair, I want to speak in strong support of the amendment put forward by Mr. Manly.

I would note that in the preamble of Bill C-7 there is reference to the fact that “Canada is a State Party to the United Nations Convention on the Rights of Persons with Disabilities and recognizes its obligations under it, including in respect of the right to life”. I believe this amendment is consistent with that preamble, with that which the government purports the bill seeks to do, which is, among other things, to respect Canada's obligations under that convention.

In that regard, I would note that article 10 of the applicable convention provides that “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.”

Now, further to that, I would note that the UN special rapporteur, even before the introduction of Bill C-7, raised concerns about Canada's medical assistance in dying regime. To that end, she noted in her statement issued on April 12, 2019, “I am extremely concerned about the implementation of the legislation on medical assistance in dying from a disability perspective”. She then went on to express concern about the absence of alternatives for persons with disabilities.

I believe this amendment speaks to some of those concerns and would go a long way toward guarding against vulnerable persons being induced to make a choice that doesn't fall within their autonomy because they simply feel that they have no other options because of their marginalization.

● (1220)

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

I have Mr. Moore, then Mr. Lewis, and then I'll call the question.

Go ahead, Mr. Moore.

**Hon. Rob Moore:** Thank you, Madam Chair.

I want to echo the points Mr. Cooper just made.

Mr. Garrison mentioned or, I guess, presupposed how some future court may look at this. It's a reminder of how we came to be in this situation in the first place, when the court decision, the Truchon decision, significantly changed what was a brand new piece of legislation, which was Bill C-14. It was less than five years old and hadn't even had its first review. That decision said that someone no longer needed to be in a situation in which death was reasonably foreseeable. The government, rather than appealing the decision, instead immediately dropped any efforts to defend its own legislation and then introduced Bill C-7.

I don't think the consultation with the disability community, with persons living with disabilities, has been robust enough. I say that based on the four days of testimony we had. On one particular day, a number of the groups represented spoke for Canadians who are living with disabilities. As Mr. Cooper just put it, we have an obligation and we have international obligations to do the right thing. The message we heard back is that people are going to be put in a position based only on their being a person living with disability, which puts them at a disadvantage compared to everyone else.

I think quite the opposite. Unfortunately, this bill singles this group out. We've been hearing that loud and clear, if members of the committee have been getting the same correspondence I've been getting, from groups from coast to coast, local groups as well as national groups, representing Canadians living with disabilities, who find some of these amendments to be an affront to them as Canadians who are seeking to be wholly involved with all that our country has to offer.

That's why I think we have an opportunity here. I'm just asking members of the committee to really think openly about what we heard and about what Mr. Manly has very thoughtfully put forward. I'm reading every word of his amendment, and to me it speaks exactly to "deprivation, social disadvantage, lack of support or perceived discrimination". What this amendment is saying is that the decision to receive assisted dying cannot be the result of one of those conditions. How can we as committee members in good conscience not support an amendment that responds so directly to the testimony we heard and that provides an element of safety? We're going to get to other amendments later that were.... While Bill C-14 had protections in place for Canadians under our assisted dying regime, some of those protections are being pulled out with Bill C-7.

I think this amendment is a thoughtful way of saying, "We're listening and we're acting cautiously. We're proceeding with caution and we, above all, are going to take every step necessary to protect the rights and the ability of persons living with disability to be fully engaged in our society." I know committee members heard what I heard: that this bill is in danger of really hurting a lot of Canadians living with disability and how they see themselves as participants in Canadian society.

I think this amendment, if we could all support it, Madam Chair, would go a long way to saying that we heard and that we were listening when they took the time to appear before us as witnesses.

● (1225)

**The Chair:** Thank you very much for that, Mr. Moore.

We'll go to Mr. Lewis, and then we'll call the question.

Go ahead, Mr. Lewis.

**Mr. Chris Lewis:** Thank you, Madam Chair.

I very much appreciate the opportunity to speak to this.

First and foremost, I want to thank Mr. Manly for bringing this amendment forward. I think it's fantastic. I think it perhaps doesn't go quite far enough, but at least it's a first step for some protection for those people with disability.

We heard some great testimony on both sides. I believe that we all took something away from it. Probably the ones that touched me the most were from the folks who truly threw their stories out on the table and said, "Here's who we are, here's where we came from and here are the shortcomings of this bill. We're begging and pleading with you for help and support on this."

This amendment begins to scratch the surface of the help they need, the respect they deserve, on so many fronts. I'm certainly speaking in support of this.

Madam Chair, I have a question for you. I know in our first amendments...you made a ruling on the amendment. Specific to this one, I haven't heard if there is actually a ruling on this one yet. The reason I bring that up, Madam Chair, is just for clarity for all members. I did recognize, in the last round of voting on the amendment, that the mover actually voted for your ruling, which is something that doesn't typically happen. I was wondering if we could have the amendment spoken to, then have your ruling come through, and then go forward.

If I missed something, I apologize in advance.

Thank you, Madam Chair.

**The Chair:** Thanks for that, Mr. Lewis.

No, I do not have a ruling on PV-1.

Having exhausted the speakers list, we'll call the vote now.

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

We will now go on to BQ-2 or BQ-3. To clarify, if both BQ-2....

[*Translation*]

**Mr. Luc Thériault:** It's actually BQ-3, Madam Chair. Amendment BQ-2 was replaced by BQ-3.

[*English*]

**The Chair:** Okay, perfect.

Thank you. I'll pass the floor to you, Mr. Thériault, to speak to BQ-3. I understand that you will not be putting forward BQ-2.

● (1230)

[*Translation*]

**Mr. Luc Thériault:** Exactly.

There are two safeguard regimes. Some safeguards relate to natural and reasonably foreseeable death, and others relate to death that isn't reasonably foreseeable. Bill C-7 removes the criterion of reasonably foreseeable natural death. However, this criterion is reintroduced when we come to the safeguards and the two safeguard regimes. Some doctors who appeared before us said that the criterion wasn't medical and that it was vague and confusing.

I wanted to clear up this confusion to ensure access to both safeguard regimes. The issue isn't about access to medical assistance in dying, but about defining provisions regarding access to medical assistance in dying in the event of either imminent or non-imminent death, through the two safeguards.

After "whose natural death is reasonably foreseeable," I added "because the person has received a prognosis of 12 months or less as to the specific length of time that they have remaining [this is a clear criterion, which is part of medical practice], taking into account all of their medical circumstances, the medical practitioner or nurse practitioner must".

The other aspect that provides access to the second safeguard regime is the following: "whose natural death is not reasonably foreseeable, because the person has received a prognosis of more than 12 months as to the specific length of time that they have remaining, taking into account all of their medical circumstances."

I'm adding a clarification to enable practitioners to make a prognosis, as they do every day. The concept of 12 months or less covers all cases of people who request medical assistance in dying at the end of life. If death isn't imminent, then we're talking about 12 months or more. If circumstances change, the person could also access this safeguard regime. We must strictly determine the two safeguard regimes by establishing whether or not they're 10 days and whether or not they're 90 days.

[*English*]

**The Chair:** Thank you very much for that, Mr. Thériault.

Mr. Maloney, would you like to speak to BQ-3, which is on the floor right now?

**Mr. James Maloney:** Thank you, Madam Chair.

I would like to thank Mr. Thériault for putting forward the amendment. I admire the rationale for doing so. We are always seeking to provide as much precision to things as we can, but there are times when doing so overly complicates matters, and unfortunately I think this may be one.

Reasonable foreseeability is not a new concept, and it's not a precise concept. In dealing with MAID, doctors are put in a position of having to assess time frames and, as we all know, time frames for end of life are never exact. Putting a doctor in a position where they have to deal with a 12-month cap is putting undue pressure on the doctor, and it's creating an artificial deadline.

If a doctor is put in a position where they have to render a decision with that time frame in mind, it might result in changing their decision so that it's complying with the precision requirement, but it's not a decision that's really capable of being that precise. That's not in any way going to benefit the patient, and it's not going to benefit the medical profession either.

Although I appreciate the amendment, and it's noble in its intent, it's putting way too much artificial pressure on practitioners who are going to be dealing with these situations. For that reason, I would oppose it.

● (1235)

**The Chair:** Thanks, Mr. Maloney.

I have Mr. Virani, Mr. Moore and then Mr. Thériault, and then I'll call the question.

Go ahead, Mr. Virani.

**Mr. Arif Virani:** I just want to elaborate a bit upon what Mr. Maloney was saying. I think that sometimes it gets complicated and gets a bit muddled when we get so mired in these terms.

We have a regime under Bill C-14 that talks about a sort of an end-of-life regime. We have a decision about reasonable foreseeability in Truchon, which says that if you keep it to just an end-of-life regime, you are not actually promoting the dignity and autonomy of individuals, and therefore a change must be made.

The change that must be made is what's presented before us now in Bill C-7. It creates two tracks. There is a track where your death is reasonably foreseeable, and then there's the track where your death is not reasonably foreseeable. There is facilitated access when the death is reasonably foreseeable, and there are enhanced safeguards where a natural death is more of a long-term one, in what we call track two.

In trying to narrow down how you divide between a death that is reasonably foreseeable versus one that is not, I appreciate what Mr. Thériault is trying to do, and I'll echo the sentiments of Mr. Maloney. I appreciate the statements he made in the House. I appreciate his interventions in this committee. I know that he and his party believe very strongly in the model that Quebec has rolled out provincially and in ensuring that there is access that grants autonomy and dignity to individuals.

Where I'll differ with him is just this idea about demarcation, the 12 months as a demarcation, a line in the sand, so to speak, as to when something becomes reasonably foreseeable or not and determining whether you fall into track one or track two.

The reason for this is that everything I've learned through the course of this committee study, and everything I've learned in the consultations that I was privileged to be a part of in January and February, indicates that the medical practitioners who are involved in this very sensitive, very complex assessment are doing so with a lot of professionalism and with the care of the patient in mind. I remain strong in that faith that they will continue to execute their functions professionally. Allowing them to have the flexibility to make that determination rather than carving out a line is, to my mind, the best path forward in terms of ensuring consistency with the regime in the past but also making the constitutional changes that are required by the position of the court.

Simply for that reason alone, I think demarcating 12 months as a line in the sand would not be beneficial and, in some respects, I certainly wouldn't want the inadvertent consequence of limiting access to MAID for those who would otherwise be eligible, who otherwise had made an informed decision and were trying to make an autonomous decision, and impeding or limiting that autonomy.

Thank you.

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

Mr. Moore, you are next on my list.

**Hon. Rob Moore:** Thank you, Madam Chair.

An individual's ability to access MAID does not hinge on this particular amendment. This amendment, as I understand it, is to fill the legislative vacuum that is being created with this legislation. If we asked every member of this committee and everyone participating today to define someone whose death is reasonably foreseeable, we could get 32 different answers because this legislation doesn't get the job done. It's not precise. It's our job, wherever we're able, to provide precise direction, especially on a piece of legislation that is literally dealing with life or death.

Bill C-7 opens up Canada's assisted dying regime. Originally, under C-14, someone's death had to be reasonably foreseeable. Bill C-7 says that, no, your death does not have to be reasonably foreseeable in order to access MAID. This means that someone who is not dying, as we may think of, someone who may have 10, 15, 20, 30 years to live, is eligible to receive MAID under Bill C-7.

It is incumbent upon us, I believe, to try to be a bit more precise. We've seen scenarios where someone is given six months to live, two years to live. That happens all the time. These are the calls that doctors make. I don't accept that saying 12 months is somehow making any more difficult a situation than just throwing something up against the wall, which is what we're doing with reasonable foreseeability—no one knows what that means. In a country of over 30 million people, with doctors in all of our provinces and territories with decisions that have to be made that are literally life and death, we're saying, "We don't know what to say. You guys figure it out." We could have grave inconsistencies throughout the country when it comes to which track someone would be on with regard to assisted dying. There are different safeguards on different tracks, so it matters whether someone's death is reasonably foreseeable or not as to which track they fall into.

I think this is a reasonable amendment. I think it enables us to do our job as legislators to have a bit more precision—quite a bit more precision—in the legislation that we're dealing with. It's for that reason that I will be supporting this amendment to define "reasonably foreseeable" as 12 months. I listened to the testimony as members did, Madam Chair. I've seen some of the submissions. There is no definition of what reasonable foreseeability is, and that, in my view, is not acceptable. It's for those reasons that I will be supporting this amendment.

Thank you.

● (1240)

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

Monsieur Thériault, you're next on my speakers list.

[*Translation*]

**Mr. Luc Thériault:** I want to thank all my colleagues for their comments.

That said, Mr. Maloney and Mr. Virani, the purpose of the amendment is exactly the opposite of what you're arguing. I've spoken with doctors. Some doctors came and told us that this criterion was removed. They were very happy about this because it was very vague and made no medical sense.

This amendment doesn't address access to medical assistance in dying. It seeks to maintain the category of reasonably foreseeable natural death or natural death that isn't reasonably foreseeable. It seeks to maintain this category to ensure access to safeguards.

However, in the case of people who are terminally ill, doctors make prognoses. That's all they do. This tells them something. It makes their job easier on the ground. Practitioners want a benchmark.

People want to live as long as possible. In the event of terminal cancer, they also want to live at home as long as possible, until they can no longer remain there. Some even decide to die at home. In this case, it's very easy if they request medical assistance in dying.

We're nowhere near 12 months. This means that, with a period of 12 months or less, a person doesn't need to wait another 10 days. They would have access to the safeguards for people whose death is reasonably foreseeable. The amendment proposes the elimination of the 10-day reflection period and exceptions to the requirement to provide final consent. At the very least, the doctor could justify the fact that the request was made under circumstances of 12 months or less.

This isn't about access to medical assistance in dying. You're mistaken when you interpret it in this manner. For the rest, it's obvious. If natural death isn't reasonably foreseeable, usually the prognosis will be 12 months or more, as in the case of Nicole Gladu.

The degenerative disease isn't yet covered by the bill. People want to live as long as possible. They don't want to die. If they're suicidal, they're treated. They're given antidepressants and they'll continue to live. They want to live until life becomes unbearable. They'll then seek care and say that they don't want to end up in this condition. The 12-month or longer period covers all degenerative diseases as well. For example, a person with very advanced amyotrophic lateral sclerosis, or ALS, would fall into the 12 months or less category. I think that doctors will be able to justify their prognoses and practices.

As a result of a totally vague criterion, doctors may or may not apply the safeguard without having to justify anything, by saying that death is or isn't foreseeable. It seems that we must be rigorous. This rigour has been called for, in particular by Dr. Naud, one of the Quebec practitioners with the most experience in this area. Go reread his presentation.

That's why I disagree with you, Mr. Maloney and Mr. Virani. I agree with Mr. Moore. The bill is supposed to provide more clarity, and the amendment does this.

● (1245)

[*English*]

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

Madame Findlay, I have you next on my list. Go ahead.

**Hon. Kerry-Lynne Findlay:** Thank you.

It seems to me that this is actually a very important amendment. We shouldn't get wrapped up in trying to keep the bill exactly as written if these amendments being put forward actually improve it.

We heard testimony from doctors—I heard it very clearly—saying that this is very problematic. A general comment on reasonably foreseeable or not reasonably foreseeable.... What does that mean?

This isn't just like any other type of medical care. We're really not talking about a therapeutic option here. That's what the doctors told us.

I'm mindful, Madam Chair, that I heard our colleague Mr. Virani say something to the effect that perhaps the mover is married to the Quebec model. I'm from B.C., so I don't exactly know what that Quebec model is, to be honest. We heard from doctors across Canada—not just from doctors from Quebec—who were very concerned about the lack of clarity in the bill around this particular issue. I would like to think that as we sit here debating end of life, we are also thinking about the life one lives up to that moment and the right of access to meaningful care, which is interwoven in a lot of these amendments being put forward.

Doctors make these decisions all the time. Just to be personal for a moment, my brother died of cancer at 48. When we went to the doctor, they told us he had 30 to 90 days and he should put his affairs in order. He lived 58 days. I think the doctors have a very good idea when they're dealing with their patients and what that patient is looking at in terms of time and in terms of what can be offered or not. That is all part of those very sensitive discussions with somebody as to the intolerability of their situation or the end of life—how soon or not it may be.

My take on the testimony that we heard is that the doctors—the medical professionals—were saying that we are introducing something here that speaks to them about how they carry out their health care decisions and health care options, but we're not giving them the parameters that would help them, either. It seems to me that it's not really just an arbitrary number. It's an amount of time that seems reasonable, where it allows a revisiting and a review with that patient. It isn't speaking to the 90 days that is in the bill now. It doesn't take away from that in any way. It does give those health care professionals who are dealing with their patients some sort of parameter and something to hold on to.

In that respect, I thank Monsieur Thériault for bringing forward something that I think is needed and that the health care professionals are asking us for. We shouldn't abandon the field in that respect. We should give them something they can work with and that is in itself reasonable and not unduly restrictive.

I would be supporting the amendment.

Thank you.

● (1250)

**The Chair:** Thanks for that reaffirmation, Madame Findlay.

We'll go now to Mr. Lewis, Mr. Garrison and Mr. Cooper, and then we'll call the question.

Go ahead, Mr. Lewis.

**Mr. Chris Lewis:** Thank you, Madam Chair.

The broad prognosis of 12 months or more replaces “natural death not foreseeable”, and a prognosis of 12 months replaces “natural death foreseeable”. Predicting prognosis for cancer and non-cancer illness out at 12 months, or many months to years, is very complicated clinically. Doctors get it wrong more often than they get it right, due to advances in treatments. They do not yet understand how that impacts the course of the disease. For this reason, most other countries and states have limited assisted death to prognosis of less than six months, including Victoria, Australia; Western Australia; Oregon; Washington; and, most recently, New Zealand.

Today, doctors are much better at prognosticating when someone is approaching their last short months of life. There is a huge body of medical evidence in the literature that speaks to the issue of prognostication. However, having some parameters around what foreseeable and not foreseeable death is would be a step forward for Canada. The courts have, to date, interpreted that reasonably foreseeable natural death does not need a specific time requirement, and people even with a decade of life have been deemed to have foreseeable death.

We had the precedent-setting Justice Perell ruling in the Ontario Superior Court, which approved a woman with osteoarthritis based on age alone, 77 years, who a MAID doctor estimated would have lived another 10 years. This ruling then led Dr. Wiebe to approve and provide MAID to a 68-year-old woman, Robyn Moro, with Parkinson's disease, whom she had declined based on a prognosis of five to 10 years.

Madam Speaker, we've had a lot of discussion, and we've had a lot of great witnesses come forward. As our other colleagues have mentioned here today, it's very difficult to try to play life and death, especially within 90 days. I thank the Bloc for bringing this forward, and I will be supporting this amendment.

Thank you, Madam Speaker.

**The Chair:** Thank you. It's “Madam Chair”, not “Madam Speaker”.

Mr. Garrison, you're up next. Go ahead, sir.

**Mr. Chris Lewis:** Maybe one day it will be “Madam Speaker”, Madam Chair.

**Mr. Randall Garrison:** Thank you very much, Madam Chair.

I appreciate the motivation behind Mr. Thériault's amendment. I do take cognizance of the fact that he is pointing out that the 12 months is about which of the two tracks that are specified in the bill to have access to.

However, my concern is that there is no medical dividing line at 12 months, so I think this inadvertently introduces an element of arbitrariness. Also, while it may be difficult for us to decide as legislators what “reasonably foreseeable” means, I think that is the job of clinicians. I think they will do a good job of deciding that.

As well, by putting in the 12 months, we risk prolonging the suffering of some people by forcing them into the second track, as I said, inadvertently. When the goal here is to protect the autonomy of decision-making of patients about the way their lives end and to prevent unnecessary prolonging of suffering, I think we're introducing an element of risk here of doing the opposite. Therefore, I will be opposing the amendment.

Thank you.

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

I have Mr. Cooper next.

Go ahead, sir.

**Mr. Michael Cooper:** Thank you very much, Madam Chair. I'll be very brief.

Let me simply say that I do support the amendment. Prior to the Truchon decision, there were inconsistencies in terms of how “reasonably foreseeable” was interpreted, particularly in the province of Quebec versus the rest of Canada. In the province of Quebec, “reasonably foreseeable” tended to be interpreted in an end-of-life context, and that in part has to do with the provincial legislation that the National Assembly had passed prior to the introduction of Bill C-14. That was not the case in other parts of Canada.

I would submit that some clarity was required, having regard for the vagueness of that term. However, given the fact that Bill C-7 puts forward a two-track approach, I would submit that clarity is now essential to ensure, to the greatest degree possible, an even application of law in all jurisdictions of Canada. On that basis, I support the amendment.

● (1255)

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

Madame Findlay, did you have something to add to your prior comments that is new?

**Hon. Kerry-Lynne Findlay:** Yes, I do.

Through you, Madam Chair, to other members of the committee—and perhaps specifically to my colleague from the NDP—is there a length of time you would be comfortable with? What we're seeking here, I believe, by supporting an amendment like this, is some greater clarity. I'm just wondering if you see that greater clarity as a necessity at all. If so, would a different time frame be reasonable to you?

**The Chair:** Just to clarify, Madame Findlay, was that question for Mr. Garrison or for the departments that are here as witnesses today?

**Hon. Kerry-Lynne Findlay:** It was actually for Mr. Garrison. I'm just trying to get some dialogue here so that I can understand it. It's hard when we're each making our little comments.

**The Chair:** I see that a whole bunch have raised their hands now, and Mr. Garrison is one of them, so he will in due time answer your question, I'm sure.

Mr. Virani, you're next on the list. Go ahead, sir.

**Mr. Arif Virani:** To be very brief on that point, I think the fact that it's difficult to pin down a timeline just points to the fact that these need to be evaluated on a case-by-case basis between the doctor team and the patient. It will be unique in every single situation.

Reasonable foreseeability is done as an assessment by the medical team, the professional team that evaluates the individual circumstances of the particular individual. Trying to pin down any particular timeline, whether it's 12 months or some other time, would not be a useful exercise, from my perspective.

Thank you.

**The Chair:** Thank you.

Mr. Garrison, go ahead.

**Mr. Randall Garrison:** Thank you, Madam Chair.

Mr. Virani essentially restated my arguments. I do believe that attempting to legislate a particular timeline between the two tracks is not the way for us to proceed. I agree with him that, as I said in my earlier remarks, this is a decision for clinicians to make. It is not for us to try to set an arbitrary date that has no relationship to medical practice in the law.

Practice will evolve as we go forward. The professional associations in each province will give guidance to physicians if any concerns or problems arise from the concept of reasonable foreseeability. I do not believe we should select any particular number of months to insert into the bill.

Thank you.

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

[*Translation*]

Mr. Thériault, the floor is yours.

**Mr. Luc Thériault:** I'll make one last point to try to convince Mr. Garrison, because the amendment covers everything.

It isn't complicated. A person whose prognosis is 15 months doesn't request medical assistance in dying. It doesn't exist. If they make the request, the period between the first assessment and the provision of medical assistance in dying set out in the bill is 90 days. We aren't changing anything. We're simply specifying that a different safeguard exists.

Most people who die of terminal cancer don't request medical assistance in dying 12 months beforehand. If they do, they can make advance request arrangements and take the proper steps to be ready when the request comes up. That way, the doctor wouldn't need to wait 10 days and to ask the patient to provide consent again.

The concern that a patient could be harmed comes from a misunderstanding of the amendment. Doctors clearly need it. They make prognoses every day to justify their practice. Otherwise, try to prove to me that death is reasonably foreseeable and tell me on what basis. Without this amendment, no prognosis would be required. This could complicate matters. It could be related to the arbitrary discretion of the medical practitioner. By including this in the bill, no one is harmed. In everyday life, in practice, no one wants to die early. If, after a diagnosis, a patient begins to experience suicidal tendencies, we know very well that they'll be treated.

In everyday life, people must prepare for their final exit. Palliative care is comprehensive support until death.

I don't know why you're resisting and thinking that patients will be harmed, when in fact the opposite is true.

● (1300)

[*English*]

**The Chair:** Thank you very much for that, Mr. Thériault.

We'll go on now to Mr. Moore.

Go ahead, sir.

**Hon. Rob Moore:** Thank you, Madam Chair.

I'm just being cognizant of the time. I'm not trying to have the last word, but I think we're pretty well at the end of the time allocated for today's meeting. I'm happy to pick this up on Thursday, or I could finish asking my question.

**The Chair:** I'd like to get through the list and perhaps we can vote on this before we adjourn today, just so the debate is still fresh in our minds. It just makes sense for us to call the question before we adjourn.

I only have three people on the speakers list. Let's quickly get through them, call the question, and then we'll start fresh on CPC-2 on Thursday. Is that amenable to everybody?

Mr. Maloney, I have you next.

**Hon. Rob Moore:** Actually, that doesn't work for me, Madam Chair. I have another call to be on now.

**The Chair:** Sorry, Mr. Moore, actually there are no more hands raised, so I can call the question right now. It will be 30 seconds, and then you can get on your call, if that's okay.

**Hon. Rob Moore:** Unfortunately, I still want to be able to speak to it, but I can't speak to it now that the meeting is scheduled to be over and I'm supposed to be on another meeting. I'd like to speak to it when we start our meeting on Thursday if that's possible.

I think it's an important amendment, and I think it's important to discuss, but this meeting is scheduled to be over and I'd still like to speak to it.

**The Chair:** Mr. Moore, we have a couple of options before us. We've had quite a healthy and extensive debate on this amendment. I would like us to be able to vote on this while it's still fresh in our minds. As you said, it is a very important amendment.

There are a couple of options. You can move to adjourn the meeting and we'll go to a vote on whether to continue, or we can hear from you about your concerns and then exhaust the speakers list and vote on this before we adjourn the meeting. I give it to the committee to decide how they'd like to handle this.

Mr. Moore, you've disappeared from the screen. Are you okay?

While we wait to hear from Mr. Moore, I'll continue down the speakers list.

Mr. Zuberi, go ahead.

**Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.):** Madam Chair, I think we've had a good discussion about this amendment. If Mr. Moore were here, I would be leaning towards calling the question since we did have a good discussion on this.

I'll call the question.

**Hon. Kerry-Lynne Findlay:** I have a point of order, Madam Chair.

**The Chair:** Mr. Zuberi, you can't call the question.

**Mr. Sameer Zuberi:** My apologies.

**The Chair:** Yes, Madame Findlay, did I hear a point of order? You are also next on the speakers list, coincidentally, so go ahead.

**Hon. Kerry-Lynne Findlay:** First of all, that was my point of order, that I didn't think it was appropriate for my colleague to call the question.

Second, under Standing Order 116(2), the debate cannot be brought to an end until everyone who wants to participate is heard from. If this is a very important issue, it's a very important amendment. There was a whole list of people who wanted to speak, which suddenly disappeared when it seemed we had to end the meeting, and I really think we need to hear from everyone under that standing order. We have a couple of hours set aside. Those hours have expired. We have a member who had to leave and I'm sure the rest of us also have other commitments.

We really should just pick this up on Thursday, finish the participation from the members, vote and move forward.

● (1305)

**Mr. Mike Kelloway:** I have a point of order, Madam Chair.

I read the green book that has been distributed to us on a regular basis. My understanding is that the meeting doesn't automatically end at one o'clock. Is that correct? I just want to clarify that. It doesn't end exactly at one o'clock.

**Mr. Arif Virani:** Madam Chair, further to that point, my understanding is that the meeting ends when the committee members deem it to end, and if there's an absence that is occasioned by a particular party, it is up to that party to find a suitable replacement.

Absent a motion to adjourn, we may continue.

**Mr. Michael Cooper:** Madam Chair, I'd move the motion to adjourn.

**The Chair:** Mr. Cooper has just moved a motion to adjourn, and because it's a dilatory motion we'll go to a vote right away.

Mr. Clerk, could you call the vote, please?

Just on a technicality, Mr. Cooper's motion was on a point of order, so it is out of order.

Mr. Cooper, would you like to move that motion so that it's not in a point of order?

**Mr. Michael Cooper:** Yes, okay.

To be in full compliance, I will now so move the motion.

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

Mr. Clerk, go ahead.

**Hon. Kerry-Lynne Findlay:** I have a point of order, Madam Chair.

**The Chair:** Sorry, Madame Findlay. We're just voting on this dilatory motion right now. Thank you.

**Hon. Kerry-Lynne Findlay:** It's a technical issue, Madam Chair.

**The Chair:** What's going on?

**Hon. Kerry-Lynne Findlay:** Mr. Moore cannot get in with his video. He's trying to. I don't want his vote to not be counted because of a technical issue. If you could just give a moment to let him get back on.... He can hear the meeting, I'm told, but he can't be seen, and I believe he has to be seen to have his vote counted.

**The Chair:** You are correct, Madame Findlay.

We'll just suspend for 30 seconds as we wait for Mr. Moore to rejoin us. Could we have somebody from IT connect with Mr. Moore to ensure that he's well supported for IT purposes?

Mr. Maloney, go ahead.

**Mr. James Maloney:** I'm sympathetic to people who have technical difficulties, but Mr. Moore signed off on the meeting.

**The Chair:** Oh, he's back. I see that Mr. Moore is back.

Go ahead, Mr. Clerk.

(Motion agreed to: yeas 6; nays 5)

The motion carries.

The meeting is now adjourned. Thank you, members.