HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

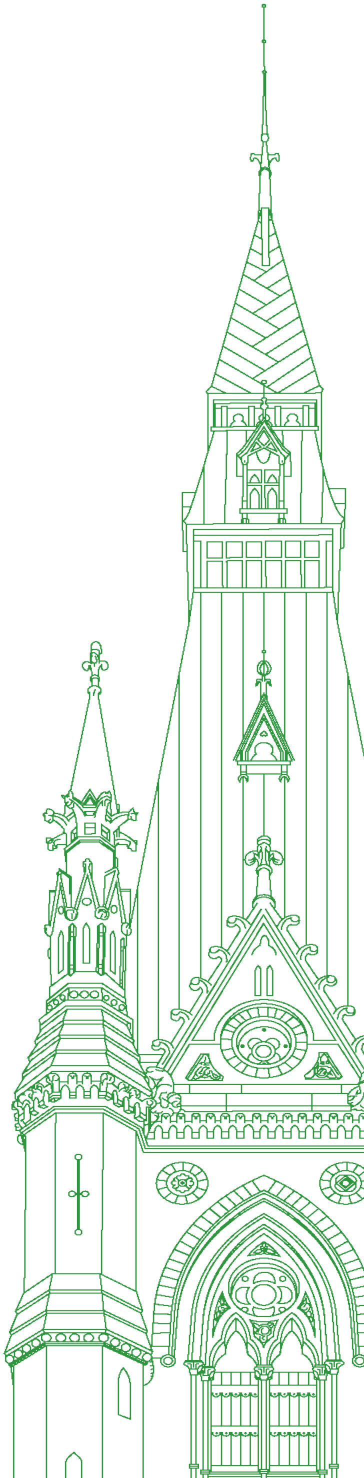
43rd PARLIAMENT, 2nd SESSION

# Standing Committee on Justice and Human Rights

EVIDENCE

## NUMBER 010

Monday, November 23, 2020



Chair: Ms. Iqra Khalid

# Standing Committee on Justice and Human Rights

### Monday, November 23, 2020

● (1835)

[*English*]

**The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)):** Good evening or afternoon, everyone. I call this meeting to order. This is the 10th meeting for the House of Commons Standing Committee on Justice and Human Rights.

For some very quick housekeeping, if members would like to speak, please unmute yourself. If you're not speaking, please make sure that you're on mute. When you are speaking, please speak slowly and clearly so that's there's no lag in interpretation.

We'll get right into it. We have our witnesses, as we consider clause-by-clause for Bill C-7, from the Department of Justice and the Department of Health. Members are obviously welcome to ask questions of them. I will name them very quickly. We have Carole Morency, Joanne Klineberg and Caroline Quesnel. They are from the Department of Justice. From the Department of Health, we have Abby Hoffman, Sharon Harper and Karen Kusch.

Very quickly, before we go into clause-by-clause of Bill C-7, there was a question that the clerk had asked me with respect to Mr. Cooper's motion to allow for briefs past the November 12 deadline. I am seeking clarity from members as to when we should stop receiving briefs. Right now we don't have an end date.

Mr. Cooper, would you like to speak to that?

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Madam Chair, I think we should continue to accept briefs until these hearings conclude.

**The Chair:** Okay. Thank you. That was the direction I needed.

Are there any members who want to say something?

**Hon. Rob Moore (Fundy Royal, CPC):** I have a point of order, Madam Chair.

**The Chair:** Just give us one second, Mr. Moore. We're just dealing with a technical challenge here.

Thank you very much for that.

Just to clarify what Mr. Cooper said, the written briefs for Bill C-7 should be allowed until the end of our consideration of clause-by-clause. Is that correct, Mr. Cooper?

**Mr. Michael Cooper:** Actually, I don't see any reason briefs couldn't continue to be submitted even after.

**The Chair:** Okay. Does anybody have any—

**Mr. Michael Cooper:** I don't know that I have a specific date, other than to say that we should continue to allow briefs to be submitted to the committee for our benefit. Even after clause-by-clause, if it's going back to the House, I don't know that there would be any prejudice in.... Why would there be any issue with briefs continuing to be submitted for members to reference?

**The Chair:** Specifically, the briefs we're talking about are in reference to Bill C-7.

**Mr. Michael Cooper:** Right.

**The Chair:** Once a brief is submitted to the clerk, there's a whole process of translation that also has to happen.

**Mr. Michael Cooper:** Yes, I understand that, but I guess at this point I'm just suggesting we allow maximum flexibility.

**The Chair:** Right, and that's exactly why everybody voted in support of your motion at the last meeting. The question from the clerk was whether there was going to be an end date to the briefs that were submitted on Bill C-7.

Mr. Moore, is that on this question?

**Hon. Rob Moore:** No, Madam Chair, it's on another matter.

**The Chair:** Okay.

Then we'll go to Mr. Virani, if that's okay.

**Mr. Arif Virani (Parkdale—High Park, Lib.):** Madam Chair, I would submit that we should receive the briefs until we have concluded the clause-by-clause review of the bill. Presumably, the purpose of submitting briefs to the committee is so that the committee members can use them to inform the positions they take on the various amendments. After that time, this is reported back to the House and obviously stakeholders can submit whatever information they want to all 338 members of Parliament. They can also avail themselves of the study that will take place in the Senate on the bill.

Sending them to the committee after the bill has left the committee and been reported back to the House, to my mind, would not be useful.

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

Mr. Maloney, is this on the same issue?

**Mr. James Maloney (Etobicoke—Lakeshore, Lib.):** Yes, it is, Madam Chair.

Very simply, Mr. Virani said what I was thinking. I agree with Mr Cooper's intention. I agree that there is no prejudice. The flip side is of course that we don't want to be disrespectful to anybody who is submitting a brief. If it's submitted after the clause-by-clause examination is concluded and there is an expectation that the committee is still in a position to review it, I don't want them to be misled. That's all. I think, therefore, we need to be conscientious regarding their intent.

Thank you.

● (1840)

**Mr. Michael Cooper:** I think that's reasonable. I will leave it at that.

**The Chair:** Thank you.

Is it the will of the committee, then, to stop receiving written submissions once we have completed clause-by-clause?

Let me see a thumbs-up from everybody, if that's the case.

Perfect. Thank you very much, everyone.

Mr. Moore, I believe you had a point of order.

**Hon. Rob Moore:** Yes. Our staff are to be able to phone in. Apparently there is a phone line they use to follow the proceedings, and we're each able to have one staff person on it. I am told by a couple of them that they are unable to connect right now.

Could someone look into the technical issue they are having in trying to follow in real time with us? I know there are two or three from the Conservative party. I don't know whether the other parties are experiencing the same thing.

Could we get that addressed so that we can have them fully engage with what's happening?

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

Are there other members whose staff are experiencing the same problems?

**Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC):** My staff member also says the line is dead, Madam Chair.

**The Chair:** IT is looking into it right now.

The phone lines have been activated. If you want to have them try again—

**Hon. Rob Moore:** Yes, it's working now.

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

(On clause 1)

**The Chair:** Now that everybody has been sorted out, we left off at the last meeting in a bit of confusion around the language of amendment NDP-2. My understanding is that at around five o'clock today, revised language was submitted. Would members be comfortable if we subbed in this language to replace what was discussed under amendment NDP-2 at the last meeting?

**Mr. Chris Lewis (Essex, CPC):** I'm just curious. Notwithstanding the fact that it is amendment NDP-2, and I respect that, I'm curious because it now becomes a Liberal amendment. Is it still an NDP amendment to Bill C-7, a Liberal-NDP amendment or a Liberal amendment?

**The Chair:** My understanding is that because the original amendment was moved by Mr. Garrison and what happened at the last meeting was that there were some friendly amendments that Mr. Virani attempted to provide, and then some confusion caused with respect to the language of the friendly amendments, this is what the friendly amendments now look like.

I'm suggesting to committee members that we just use this language to continue the debate on amendment NDP-2. I believe all members have it in front of them.

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

Just for clarification, this stays as amendment NDP-2. It is an NDP amendment. Is that correct?

**The Chair:** Yes, that is my understanding.

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

**The Chair:** Go ahead, Madam Findlay.

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

This is a similar point to my friend's. It's really a point of clarification. On the agenda that was circulated for tonight's meeting, it says “clause-by-clause consideration”, and the first one says “LIB-1”.

I am rather confused because it was an NDP motion and a friendly amendment. The mover accepted the amendment, so I think it remains NDP-2, an NDP-led amendment. It doesn't suddenly, miraculously, become a Liberal amendment, but I may be wrong. I stand to be corrected, but are we not now debating NDP-2 as amended through a friendly amendment, or is there some different LIB-1?

● (1845)

**The Chair:** That's exactly what we're doing. We're debating NDP-2 with the friendly amendment, but I will pass it to our legislative clerk for clarification.

**Mr. Philippe Méla (Legislative Clerk):** Thank you, Madam Chair.

Yes, you would be correct. The problem is that there is no such thing as a friendly amendment. Either there's an amendment or there is something else, but the concept of a friendly amendment is non-existent, so to speak. That's the reason you have LIB-1 in the agenda, but once we go to the minutes of the proceedings, it will appear as NDP-2 since this is the will of the committee. This is how it's going to appear in the minutes of the committee.

**The Chair:** Thank you for that.

**Hon. Kerry-Lynne Findlay:** It's clear as mud, as with most procedural rules. Thank you very much.

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

I have Mr. Moore next on my list.

**Hon. Rob Moore:** Thank you, Madam Chair. Through you, could Mr. Garrison offer any comment on how this amendment changes his amendment?

It's to get your thoughts on the change that's been made and how it improves it or changes what you originally had and what we originally debated.

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

The wording is, I believe, clearer than what I originally submitted, in the sense that it is more specific about who must consult whom, and who must inform whom of the consultation.

Really, the original intention of my amendment came at the request of the MAID assessors and providers, who felt that the new provision for track two was somewhat unclear about the process of consulting those with extra expertise.

The new wording achieves exactly the same goal, and on reflection, I think it does so in a way that is going to be easier for those who work with the act to do so.

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

Mr. Virani.

**Mr. Arif Virani:** I'm tempted to just say “ditto”, Madam Chair. It's basically just a clarification, observing the spirit of what Mr. Garrison was seeking, where expertise could be availed of when the expert is not physically on the ground in a given location and ensuring that whoever does the consultation with that expert shares the results of that consultation with the other assessor.

**The Chair:** Thank you for that, Mr. Virani. I don't have any more hands raised for further debate on NDP-2, so I will call the question for voting.

Madam Clerk, if we can record the vote, please, the question is “Should NDP-2 carry?”

**Mr. Arif Virani:** Madam Chair, so that we're crystal clear, is it NDP-2, as amended by the language that was suggested?

**The Chair:** Absolutely, this is NDP-2, as amended by the language that was sent via email to all members at 5:02 p.m. earlier today by our legislative clerk.

**Mr. Arif Virani:** Thank you.

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

● (1850)

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

Now we're moving to PV-2.

Mr. Manly, you can briefly speak to it if you'd like, please.

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

This amendment was adapted from a request made by Inclusion Canada, and it was supported and sent to me by Graham Morry, the executive director of the Nanaimo Association for Community Living.

I also met with Inclusion BC and several local self-advocates who support this amendment. This amendment is a minor change to the safeguards for natural death not foreseeable. It calls to 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 have had consultations with the relevant professionals who provide those services or that care.

I have years of experience working with the diverse abilities community, through skills training and employment programs, with youth with barriers to employment and people with disabilities. As part of that work I connected people with all of the services that are listed above, except palliative care. I was able to make those connections and arrange appointments within a matter of weeks. Given that there is a 90-day period under the safeguard provisions for natural death not foreseeable, I believe there's plenty of time for people to seek out and receive these consultations and that this is not a barrier to people accessing MAID.

If the consultations listed specialists, then I could see how this would be a barrier because, unfortunately, it takes much longer to see a specialist in this country.

I think this is a very reasonable amendment that will give the disability community more confidence in the MAID process. It's important that this community is heard and feels heard and respected. I personally believe that there are adequate safeguards built into this legislation, but I would like the bill to be clearer for people with disabilities and the disability community, so that their concerns are heard.

Thank you.

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

Mr. Kelloway, I have you next on my list.

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

I want to take this opportunity to welcome MP Manly to the committee. I appreciate his voice, his viewpoints and his terms of reference, as just stated.

I respectfully oppose this amendment. The bill, as currently written, ensures that individuals are offered consultations with relevant professionals for appropriate services, while at the same time respecting the autonomy of patients to decide whether or not to pursue advice, information or services that may be suggested or offered to them. In addition, Madam Chair, the bill requires that they be informed of the means available to relieve their suffering, that they give serious consideration to those means and that they be offered consultations with professionals who provide that care.

The proposed amendment would force competent persons whose death is not reasonably foreseeable to undertake every consultation proposed to them in order to be eligible for MAID. For those reasons, I respectfully oppose the amendment.

Thank you.

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

Mr. Virani, I have you next.

**Mr. Arif Virani:** I'm sorry, Madam Chair. I believe that was from the previous round. I tried to lower my hand. I apologize.

**The Chair:** Madam Findlay.

**Hon. Kerry-Lynne Findlay:** I'm hearing what our colleague MP Manly has to say. We've certainly heard a lot of testimony in this committee from persons with disabilities or advocacy groups for those persons in Canada. They have a lot of concerns about the expansion of this legislation as proposed by the Liberals.

So far, every amendment we've tried to propose to either further protect persons with disabilities or give them some comfort level has been defeated, by the Liberal and NDP votes specifically.

It seems to me that this is a very reasonable addition. It's a clarifying addition. It's an amendment that I feel I could support. In light of Mr. Manly's comments about the timeliness that he has experienced in being able to connect people with further and other support services and consultations, this isn't a high onus. It doesn't change the effect of this legislation and what the Liberal government is proposing here, but it does give a comfort level. It is the reality on the ground.

In question period today Minister Lametti once again, in response to a question, said something to the effect that by the time people make this decision, there is no doubt in their minds, that they've gone through whatever it is they need to go through to process all of this and it's a done deal. However, we've heard testimony about transient suicidal ideation. We've heard testimony—actually, there are reports, which I've referenced before—about people in fact changing their minds.

Everyone is different. If we really believe in individual autonomy, then it seems to me we should make it very clear that people would have the opportunity and would be encouraged, to the extent it makes sense in their particular case, to consult with others and get all the support services they need.

The individuals are the ones driving this agenda. They would know whether they want to seek this. They would know whether they feel they would get comfort out of it. They may have already made up their minds but just have a little doubt and want to talk it out with someone else. There are so many different scenarios that could be played out.

It seems to me that there is a thoughtful suggestion in this amendment. When I hear that a group such as Inclusion Canada are good with this wording and perhaps even supported Mr. Manly in bringing the wording forward, that is very persuasive to me, given the testimony we've heard.

I don't frankly think it's a great idea for legislators to put forward legislation that virtually ignores a very important segment of Canadian society, which is persons with disabilities. They have made it very clear that they're reaching out to us and saying, please don't make us different from everyone else, but make amendments here and improve this legislation in a way that makes us at least more comfortable, so that we don't feel that we're being isolated or segmented out.

I don't see why we cannot answer that call, frankly.

With those comments, I'm supportive of this amendment. Thank you.

● (1855)

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

I have Mr. Moore and then Mr. Cooper.

Go ahead, Mr. Moore.

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

First of all, I think this is a very thoughtful amendment by Mr. Manly. We heard the testimony from witnesses, vulnerable witnesses, Canadians living with disabilities. This response to some of the concerns raised by some of our witnesses....

In this discussion, I often hear medical professionals or doctors cited, but often we're talking about MAID assessors or MAID providers, and I think, as a committee, we have a responsibility. I've listened to the MAID assessors and MAID providers, but the broader physician-doctor-health care community....

On the specific issue of this Green amendment, we received a submission as a committee—I know I did—from Physicians Together for Vulnerable Canadians. It was signed by more than 800 physicians. These are physicians—medical doctors—who say they feel compelled to voice their “dismay at how individuals who have little lived experience of the realities involved in the everyday practice of medicine suddenly and fundamentally changed the nature of medicine” by making changes to assisted suicide.

Specifically on this matter, and I want to home in on this, they say:

> ...the authors of Bill C-7 consider it sufficient to offer patients information about other possible means to alleviate their suffering, [but] there is no requirement that the service be available to the patient.

How many times did we hear that? In the limited testimony we had on the bill, I heard over and over, from persons with disabilities and from others who have concerns with this bill, that it's not a true choice between assisted death and other options if those other options aren't available.

They go on to say:

> We live in a country where the wait time to see a psychiatrist in certain areas is 4-8 times longer than the 90-day waiting period proposed in the bill for those whose natural death is not considered “reasonably foreseeable”, and where 70% of citizens nearing the end of life still have no access to basic palliative care services. Yet MAiD has been deemed an essential service under the Canada Health Act and palliative care has not. This bill creates the conditions for cheap and easy death through euthanasia or assisted suicide.
>
> This is not the medicine that we have devoted our lives to practicing. Our intent is to heal and to alleviate suffering....

These physicians sent our committee this information. They are saying that it's not a true choice, if a person has not fully been able to explore what services, including palliative care services, are available to them. They say that 70 per cent of Canadians nearing the end of life still have no access to basic palliative care services.

In Bill C-7 we have a significant expansion of Canada's assisted dying legislation. My goal in this is to listen to the testimony from witnesses and ensure that we as a committee do everything in our power to protect vulnerable Canadians, protect Canadians who are at a low point in their lives and protect Canadians' basic and fundamental rights, and to make sure that, when a decision is made that involves assisted dying, it is made with all the best available information.

If a person dealing with end-of-life issues has not been able to avail themselves of a consultation with a palliative care doctor, then how are they supposed to make that decision? This is the point that these physicians—more than 800 of them—have made to our committee.

● (1900)

It's for those reasons and others that I think this particular amendment is bang on. I think it is a further safeguard. I don't think it's too onerous at all. Remember, these are cases where death is not reasonably foreseeable, so we want to make sure that Canadians have been able to avail themselves of all possible options.

It's for those reasons that I'm happy to support this Green amendment from Mr. Manly.

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

Mr. Cooper, you're up next.

**Mr. Michael Cooper:** Thank you very much, Madam Chair. I too would like to express my support for Mr. Manly's amendment. I believe it is very reasonable and, in some respects, a modest amendment.

We heard over and over again from witnesses, particularly those representing persons with disabilities, of the inadequacy of the provision, in the context of where death is not reasonably foreseeable, to merely inform a patient of alternatives. To merely inform a patient without requiring them to seek any alternatives or without any guarantee of seeing that they have access to those alternatives puts vulnerable people at risk, vulnerable people who are often in their most vulnerable state upon making a request for medical assistance in dying.

I would note that the minister has often said, and others have said, that when someone makes a request for medical assistance in dying, they have long thought through the process and it's therefore somehow important that it be expedited, which I don't quite understand. When we're speaking about where death is not reasonably foreseeable, it opens the door to persons who might have had an accident or a traumatic event or a diagnosis that causes them to have their life literally turned upside down. We heard evidence of suicidal ideation, particularly in circumstances where people have bad news or where they are experiencing significant pain and suffering, without having an opportunity to identify or determine what possible treatments might be available to them.

I would note that Dr. Catherine Ferrier appeared before this committee. I'm going to read this into the record because I think it's important in the context of this motion. She is a physician who has worked since 1984 in the geriatric clinic at McGill University Health Centre. She noted in her testimony that:

> The suicide rate after traumatic spinal cord injury is [five] times that of the general population for five years. Those who choose suicide may not [have a diagnosable depression] or [be] incapable of decision-making. Their options have been tragically narrowed, and it takes a long time to readjust, but people do. After five years, the rate is the same as that of the general population. They need protection from their despair. That's why our society responds to suicidal desires with prevention. That's why [it makes no sense to] allow MAID after 90 days [for people who are not near the end of life].

She objects to the 90-day period. One can debate that. I, too, don't agree with the 90-day period. With respect to Mr. Manly's amendment, I've cited one example, but there are many other examples of people who suffer from a disease or illness who have much higher suicide rates until after a period of time when they can adjust. It speaks, therefore, to the importance of the amendment, to not just provide information but to see that they can get appropriate consultations.

I would note that this amendment is consistent in some ways with what was said in the final report of the External Panel on Options for a Legislative Response to Carter v. Canada.

● (1905)

That report, which was very important when we were giving consideration to Bill C-14, said “a request for a physician-assisted death cannot be truly voluntary if the option of proper palliative care is not available to alleviate a person's suffering.” Surely someone should, at the very least, be required to go through a consultation in circumstances where death is not reasonably foreseeable.

I would note that Canada, by going down this road, would be an outlier in the world. We would have, arguably, the most permissive regime in the world. I would note that in the Netherlands, for example, a physician must confirm that there are no other potential means to relieve suffering before administering medical assistance in dying to a patient. Here we would provide merely information but no obligation to ensure that the person could truly make an informed decision. You can't make a truly informed decision and you can't exercise your autonomy if the choice is simply intolerable suffering versus medical assistance in dying.

I believe that Mr. Manly's amendment, for all of those reasons, makes sense.

I will say I find it troubling that when we have heard from 72 national organizations representing persons with disabilities and the rights of persons with disabilities, when we have heard concerns expressed by the UN special rapporteur on the rights of persons with disabilities and when we have heard questions asked about Canada's compliance with its international obligations under the Convention on the Rights of Persons with Disabilities, including article 10, that the members on the government side have given short shrift to all of those concerns. I would just—

● (1910)

**The Chair:** Mr. Cooper, just talk about the amendment, please.

**Mr. Michael Cooper:** —hope, taking into account those concerns, that members on the government side would be open to supporting what I believe is a good but very modest amendment.

Thank you.

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

Mr. Manly, if you want to respond to some of the concerns or issues that have been raised, briefly, sir, please go ahead.

**Mr. Paul Manly:** I was just going to say that many of the things are listed here say "where appropriate", so these aren't services that everybody will need to access. It has, "where appropriate, counselling services, mental health and disability support services, community services and palliative care". I think that many people will have already sought out some of these things before they seek a medically assisted death.

I don't want to take away somebody's agency to say that they don't want to have to seek mental health services or disability support, but I think many people seek these things out already. We want to make sure that, for people in the disability community, they have actually had the opportunity to get those consultations and see what supports are available to them.

In my work I have had youth who were threatening suicide. They were at their wit's end because they weren't getting the services and the things they needed. It just took some patience and some time to work with them, and to work within the community, to ensure that they had access to the things they needed so that they could thrive in the community.

That's all I have to add. Thank you.

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

I have Mr. Lewis next on the list.

Go ahead, Mr. Lewis.

**Mr. Chris Lewis:** Thank you, Madam Chair. I certainly appreciate the opportunity to speak to this tonight.

Just as a point of clarification with regard to Mr. Cooper, I thought Mr. Cooper actually was very much speaking to the amendment. I'm just wondering what the rules of engagement are. I have quite a bit to say on this as well. I guess I'm asking you, Madam Chair, whether as long as I'm speaking to the amendment I'm fine to continue on. Is that correct?

**The Chair:** Absolutely. We're talking about relevance and specifically what the amendment does and how it would impact Bill C-7, as with all clause-by-clause.

● (1915)

**Mr. Chris Lewis:** Excellent. Thank you very much, Madam Chair. I appreciate that information.

As I noted earlier, the speed at which Bill C-7 is being pushed through has been quite distressing, to say the least. It has left very little time for consultation with the proper groups. Medical professionals and groups advocating for vulnerable Canadians have been excluded from the consultation process, but thankfully tonight we did allow briefs to come forward. I think that's a fantastic step forward for this committee.

It has always been common practice in other nations with laws that allow euthanasia that it is treated as a last resort, not as an initial treatment option. The typical requirement in these nations is that the standard of care must be applied before it is offered. This has been a point raised by many doctors and other health care professionals across the country as they voice their concerns over how this bill puts vulnerable groups in our country at risk.

I am grateful that our colleagues in the Green Party put forward this valuable amendment that could very well save lives. The amendment proposes to change the wording of proposed paragraph 241.2(3.1)(g). This would require that those whose death is not reasonably foreseeable go through consultations with professionals who have relevant experience in the care of and services for those with a similar diagnosis or condition.

It is of the utmost importance that patients are also given this consultation by the proper professionals. These professionals must be individuals who currently provide the service or care that is applicable to what the patient's diagnosis or injury would require. The responsibility to ensure that individuals considering MAID are fully informed prior to making such an important decision ought to be paramount. When a person is in such a desperate position that they are driven to consider ending their own life, they should be afforded every available support, and this necessarily includes being informed of alternatives to MAID.

I'm sure that often when someone receives a diagnosis of a chronic issue or disability, they can feel like the world is falling—

**The Chair:** Mr. Lewis, your audio and your video aren't of good quality.

Are members able to hear and understand Mr. Lewis?

**Mr. Ramesh Sangha (Brampton Centre, Lib.):** No, not clearly.

**Mr. Chris Lewis:** Is that any better?

**Mr. Ramesh Sangha:** It's not very clear, Madam Chair.

**The Chair:** Mr. Lewis, could you check your connection? Maybe you can connect with IT and we'll come back to you, if that's okay.

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

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

Monsieur Thériault, it's good to see you in good health in our committee. Please go ahead, sir.

[*Translation*]

**Mr. Luc Thériault (Montcalm, BQ):** Thank you, Madam Chair. That's kind of you.

I'm sorry, but I do not agree with my colleagues' comments, relevant though they are, because they are based on assumptions like the following. Paragraph (g) is located at the end of the safeguards in subclause 241.2(3.1), which states that:

> Before ... provides medical assistance in dying to a person whose natural death is not reasonably foreseeable...

When a person makes a request of that nature, we cannot assume that they are doing so on an uninformed basis. There is a whole process for requests made by people with degenerative illnesses or conditions, impairments that lead to intolerable disability and suffering, or grievous or irremediable conditions or states.

Bill C-7 says that, when such a request is made, a certain number of things must be done. I do not think we should assume that, just because somebody has a physical or cognitive disability, they do not have as much moral autonomy than any of us here. That assumption is forgotten at the outset. Another forgotten assumption is the following: when legislation or the Criminal Code includes an exculpatory measure, it cannot be misleading or unevenly accessible across the country.

After all the other safeguards in Bill C-7, paragraph (g) states the following:

> ensure that the person has been informed of the means available to relieve their suffering...

I would like to emphasize that an assessment of the irreversibility of a person's state has been conducted beforehand. We talked about this, because the core issue is the irreversibility of a person's state of suffering. That is what medical professionals must assess. The full wording of paragraph 241.2(3.1)(g) is as follows:

> 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 with relevant professionals who provide those services or that care;

After that entire list of the services available, Mr. Manly would like us to say “and has had consultations with the relevant professionals who provide those services or that care”. If that is not a requirement, I wonder what is. Does the requirement for consultation apply to only one of these services? Does it apply to all of them? Mr. Manly mentioned palliative care, but that is not the only service listed here.

In this context, I would hope that, by the end of the process, people have made a completely free and informed decision, with no one pressuring them into doing so. However, they are being told that a certain number of parameters still have to be checked and that professionals can be consulted. When someone is suicidal due to an accident, the suicidal state is reversible. We cannot be comparing apples to oranges. When someone requests medical assistance in dying, their state, condition, problem, disability... Disabilities are always social. I always have a difficult time referring to people with disabilities as “disabled”. It's we, as a society, who disable them.

● (1920)

They have the same moral autonomy as you and I, yet the Criminal Code would require them to undergo additional consultations, as if their decision was not informed by a consultation process already. State paternalism can only go so far, and this amendment runs contrary to the principles set out in the Carter decision and in the one rendered by Justice Baudouin. That is why I am opposed to it.

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

[*English*]

Mr. Moore, I have your hand raised for a response to any of the comments you've heard since your last intervention.

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

It's interesting to hear people, different members, giving their opinions. I suppose we're all entitled to our opinions. I would hope all of our opinions are informed opinions.

When we're talking about palliative care, which this amendment does, I think it's important to listen to what palliative care doctors have to say. We received a submission—or at least I did, and I'm assuming other members did—from the Canadian Society of Palliative Care Physicians. I just want to draw the members' attention to one of their significant points. It's their first point. They gave our committee several recommendations, and their recommendations help inform, I think, a number of the amendments we're going to deal with.

In particular, on this amendment, their point is that:

> Time is often necessary to ensure careful assessment of an illness, proper diagnosis, impeccable symptom management, and appropriate monitoring of treatment interventions that can provide benefit to a person facing a new illness or situation.

We've heard this many times. They continue:

> When a new and often complex reality is being faced, an individual may normally experience an existential crisis and question the meaning and value of their life. With time and support, a person can come to a new sense of normal and find meaning in their circumstance.

Now this is the relevant point, Madam Chair. They say:

> This may take many months or even years for some people.

Under the provisions of Bill C-7, for the first time ever, Canadians whose death is not reasonably foreseeable can now access assisted dying. What these palliative care doctors are pointing out is that:

> Any professional assessing a patient's request for MAiD must have access to appropriate consultative support for that patient according to their need.

That means the patient's need, and we have, or we should have, a patient-centric system. They continue:

> This may include palliative care, psychiatry, chronic pain specialists...physiatry, spiritual care, and services to support people dealing with mental health issues, substance use disorders, disabilities, as well as physical and social isolation.

We're hearing more and more about isolation in the context of COVID right now. They continue:

> This would ensure all reasonable treatment options have been provided to manage physical, psychological, social, spiritual, and emotional suffering.

Here is the relevant point. They say:

> Simply having information about the available treatment options is not enough; people need the lived experience of care to make an informed decision.

I'm going to repeat that because it is the exact point of Mr. Manly's amendment. Mr. Manly's amendment is directly on point to what we're hearing. Is it from some random person on the street? No, it's from palliative care doctors, people who deal every day with Canadians who are in this situation. How often, when we see an obituary in the newspaper, do we see that it thanks palliative care doctors for the care they got, no matter what hospital they may have been in? What they say, for emphasis, is that simply having information about the available treatment is not enough. They need the lived experience to make an informed decision.

They say that under the two-track system that we now have, the 90-day assessment period, which we'll get to later with another amendment, may:

> ...not provide sufficient time for a person to receive appropriate palliative care or other supports needed to reduce suffering and live with dignity. Instead, they may feel that a premature death via MAiD is the only option. This may also lead to people "requesting MAiD" to jump the queue to access these needed services.

We're a big, diverse country. We're dealing with, certainly, a topic that we have varied opinions on. I'm hopeful that what unites us as a committee is a desire to protect vulnerable Canadians.

● (1925)

The people who deal with people in their most vulnerable state are palliative care doctors, the specialists who are informing this committee that they do not think it's enough to mention to somebody, or to hand them a brochure, about what may be available to them. They think it's important that we actually have engagement with a specialist.

Even the government saw the wisdom of this, for those on the second track where death is not reasonably foreseeable, requiring that one of the two doctors making an assessment be someone who has a speciality in the individual's condition. When a person is nearing an end-of-life situation or when a person is looking for what options they have, it's having that consultation with a palliative care specialist so they can tell the individual what services can be offered, in a real consultation.

We're talking about life and death. We heard it over and over. It's not a true choice unless the patient is informed in a fulsome way of all of their options.

● (1930)

**The Chair:** Thank you.

**Hon. Rob Moore:** I don't want to see my constituents or any of our constituents, any Canadians, in a situation where they are choosing assisted death because of a lack of information and consultation on the options they have.

Madam Chair, that is why, again, I thought it was important to mention, when we're talking about palliative care issues, what the palliative care doctors are saying. What they are saying is that we should all around this table be supporting this amendment.

That's why I'm pleased to support it.

Thank you, Madam Chair.

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

I'll just remind members as we're continuing the important debate, as you speak to amendments, it doesn't make sense to keep making the same arguments.

I really appreciate, Mr. Moore, that you are quite adamant and quite eloquent in voicing your opinion and your concerns. However, I would hope that everything is on the record and that we could move things along.

Mr. Lewis, do you have anything to add, based on what you said before?

**Mr. Chris Lewis:** First and foremost, Madam Chair, my apologies to the committee. I apologize for my IT issues. I want to thank the IT department for helping me through this—many thanks. I hope that my connection is a little better now, if nothing else.

I have quite a bit to add to this.

One thing I was going to speak to was Dr. Catherine Ferrier, but, of course, my colleague Mr. Cooper already spoke to that.

With respect to what you just said Madam Chair, again, we don't want to add a whole bunch of verbiage to this discussion, but I think it's very important that this committee takes a good hard look at Mr. Manly's amendment. I think it's an amendment that truly speaks to protection of all Canadians. Additionally, this amendment will aid in the prevention of abuse and malpractice, which ought to be a central concern, especially when dealing with individuals whose mental and/or physical states are especially fragile or vulnerable. There will always be the risk of coercion, undue pressure and things of this nature.

However, this legislation should mitigate the risk as much as possible, ensuring that every patient is informed of all available alternatives, including receiving counselling regarding the continued management of their condition with ongoing treatment or therapeutic measures. That should be seen as a basic and fundamental prerequisite for the consideration of the procedure to end one's life.

Madam Chair, I would again ask respectfully that this committee gives a good hard look at supporting this amendment. I think it's a great amendment.

Again, I apologize to the chair and to the committee for my IT issues here. I will certainly have more to say on further amendments.

Thank you, Madam Chair.

**The Chair:** Thank you, Mr. Lewis. I'm glad your IT problems have been resolved. It's good to have you back.

Mr. Cooper, I have you next on the list.

**Mr. Michael Cooper:** Thank you, Madam Chair.

In my previous comments, I made general reference to the UN Convention on the Rights of Persons with Disabilities. What I would add to that is that Mr. Manly's amendment clearly falls in line with the purported intent of the legislation, inasmuch as the preamble of the legislation provides that Canada, first of all, a “State Party” to the UN Convention on the Rights of Persons with Disabilities and, as the preamble states, “recognizes its obligations under it, including in respect of the right to life”.

If the bill actually does what the preamble states as the intent of the bill, then it is imperative that Mr. Manly's amendment do pass. I would note article 10 of the convention.

What is article 10 of the convention? Article 10 very simply states:

> 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.

The UN special rapporteur, again, speaking directly to the issue, that is, Mr. Manly's response—

● (1935)

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

I'm not a fan of interrupting, and I apologize to Mr. Cooper, but Mr. Cooper is raising points that could have been raised previously. I don't want to impede someone's ability to get their points across, but I don't think it's necessary that people do it multiple times.

If you have something to say, I would suggest that you do it the first time. Unless you have something in response to an opinion that was opposed to what you said to earlier, I don't think it's appropriate that we just give somebody a second chance to prolong the discussion unnecessarily.

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

**Hon. Rob Moore:** On that point of order, Madam Chair, we can talk about “appropriate” all we want, but as you know, each member of Parliament who wishes to speak to these things—I'm sure you're going to let us know, Madam Chair—is entitled to do so, because those are the rules of how we conduct ourselves.

If someone in discussion, as has happened with me on other interventions on an amendment, makes a point that I wish to respond to, much in the same way that Mr. Maloney raised his point of order and now I'm responding to it, we're able to do that as members of Parliament. We're able to speak to these amendments. This is the House of Commons, where members of Parliament give voice to the Canadians we represent. A part of the rules of this place is that every member can speak as often as they wish to these amendments.

So far, from what I've heard, everything has been on point with the amendment we're dealing with.

I just wanted to respond on that point. Thank you, Madam Chair.

**The Chair:** Thank you.

**Mr. Arif Virani:** On the same point of order, Madam Chair, I think it's important that what we try to do in this context is that we actually try to have some precision in our commentary. I think the point that Mr. Maloney is attempting to make is not an attempt to limit the debate. It's an attempt to ensure that people focus their commentary, and that if you're going to reply in a second go-round, you do exactly that. You respond to something new that you've heard.

In the entire context of the approximately 30 minutes we've spent on this discussion, all of two people have raised opposition to the views of the Conservatives. They are Mr. Thériault and Mr. Kelloway. I do not find that, in the secondary submissions that are being made by multiple Conservative members, we're finding people responding to comments made by either Mr. Kelloway or Mr. Thériault.

Perhaps we could have some clarification, because I think it's your role as chair, Madam Chair, to guide the debate in an efficient and appropriate manner so that we can move through these amendments out of respect for the people who are on this call, out of respect for the departmental witnesses and out of respect for House staff.

Thank you.

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

**Hon. Rob Moore:** On that point of order, Madam Chair—

**The Chair:** Sorry, Mr. Moore. I have Madam Findlay next.

Is this on the same point of order, Madam Findlay?

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

**The Chair:** Go ahead, Madam Findlay.

**Hon. Kerry-Lynne Findlay:** I actually find these comments offensive.

I have the right as a member of Parliament, as do all of my colleagues from every party, to make comments in committee on amendments as I choose to make them. I don't believe that any other member here has the right to tell me, “I don't think what you're saying is succinct enough, MP Findlay. I don't think what you're saying is the way I would say it.”

I'm not aware of any such rules. My understanding of the standing committee rules is that we have the opportunity to make comment on these amendments as we go forward, clause by clause. Sometimes our comments are just commentary. Sometimes they're hoping to persuade other members of the committee to see things the way we see them. That is our right. That is our right as parliamentarians, to make ourselves heard.

Sometimes you make an intervention and maybe you think after the fact, “Oh, I should have mentioned that.” Well, you have the right to put your hand back up and finish those thoughts.

I am not aware that there is any rule that says you, Madam Chair, or any other member of this committee, can say that I only have the right to put my hand up again if I have some specific point, and that I must do it in a succinct way so that someone else on this committee decides how succinct I am. That is ridiculous. That is not the way that committee is to proceed. That's not the way that debate proceeds.

If we want to do this in an efficient but also effective manner, we should let people make their points on each of the amendments as they arise to the extent that they wish to. Otherwise, we're going to be sitting here all night, with me saying, “I don't like the way that person said this”, “I don't like the way that person said that” and “I have a comment on whether I think they used the most efficient language.” That is not sustainable, Madam Chair.

Thank you.

● (1940)

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

Mr. Moore, go ahead on the same point of order.

**Hon. Rob Moore:** I'm going to exercise my right to simply say that I agree with everything MP Findlay just said, and it doesn't bear repeating because it was excellent and she made the point. Her understanding of the rules is exactly correct, and in the time we've spent discussing this, we could have been discussing the amendment.

I hope that there are no further interventions about the rights of members of Parliament to speak to each and every one of these amendments and to have a good discussion around the amendments and to make points that they've heard from witnesses about these amendments.

I agree with everything that Madam Findlay just said.

**The Chair:** Thank you.

Did you want to speak, Mr. Cooper?

**Mr. Michael Cooper:** I'll speak very briefly to simply say that I first of all agree with all of the comments of Mr. Moore and Ms. Findlay. I think it's important that we have a thorough debate on amendments.

This process has been completely rushed from start to finish. It's been, frankly...not out of any disrespect to you, Madam Chair—

**The Chair:** Speak to the point of order, Mr. Cooper.

**Mr. Michael Cooper:** I will simply leave it at that. However, my comments are very relevant to the amendment before us, introduced by Mr. Manly.

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

On that point of order, I will reference page 1059 in the green book, chapter 20. It states:

> In addition, the Chair may, at his or her discretion, interrupt a member whose observations and questions are repetitive or are unrelated to the matter before the committee. If the member in question persists in making repetitive or off-topic comments, the Chair can give the floor to another member. If the member refuses to yield the floor and continues talking, the Chair may suspend or adjourn the meeting.

On that ruling with the point of order raised by Mr. Maloney, members, I will encourage you to please keep your comments within that scope, within the scope of the specific amendments, within the scope of what is being discussed, and to please refrain from being repetitive with your arguments.

Mr. Cooper, you can continue. Go ahead.

**Mr. Michael Cooper:** Thank you, Madam Chair.

I would just note that my comments were highly relevant to the amendment. They were certainly not repetitive in any way of anything that I had previously stated. I would hope that members of the government would take heed of the concerns expressed by the UN special rapporteur on the rights of persons with disabilities.

In that regard, in connection with the amendment that Mr. Manly has put forward, the special rapporteur stated:

> I am extremely concerned about the implementation of the legislation on medical assistance in dying from a disability perspective. I have been informed that there is no protocol in place to demonstrate that persons with disabilities have been provided with viable alternatives when eligible for assistive dying.

I believe Mr. Manly's amendment is a step in the right direction to addressing the concerns raised by the special rapporteur with regard to Canada's international obligations under the UN convention, which Bill C-7 expressly acknowledges in its preamble.

Thank you, Madam Chair.

● (1945)

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

We'll call the question on amendment PV-2 at this time.

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

**The Chair**: We now go on to amendment CPC-6.

Mr. Moore, would you like to move this amendment and speak to it?

**Hon. Rob Moore:** Thank you, Madam Chair. I was just going to move it, but I'll speak to it then as well, per your invitation.

What CPC-6 does is it.... To back up a bit, as you know, in Bill C-7, we have two tracks, one where death is reasonably foreseeable and one where death is not reasonably foreseeable.

We've already dealt with the fact that we have not defined "reasonable foreseeability". On the track where death is not reasonably foreseeable, there are a number of safeguards that are in place.

On the track where death is reasonably foreseeable, we know that the 10-day reflection period that Parliament included in Bill C-14 is being eliminated. On the track where death is not reasonably foreseeable, the government has put in place a 90-day reflection period. It's interesting that on the one hand there's a reflection period being eliminated and that, on the other hand, there's a 90-day reflection period.

Our amendment CPC-6 would ensure that rather than "90 days", there are "120 clear days between the day on which the first assessment under this subsection of whether the person meets the criteria set out", and the point when they can receive medical assistance in dying. In effect, it extends the reflection period when death is not reasonably foreseeable.

The basis for our proposing this is based on testimony that we heard. All of us, as members of Parliament, know that access to health care is an issue probably in all of our ridings and among all of our constituents. Particularly now with COVID, we're seeing even more delays in the system.

I mentioned them before, but the Canadian Society of Palliative Care Physicians specifically points out that under the proposed two-track system, where death is not reasonably foreseeable, the 90-day assessment period may not provide sufficient time for a person to receive appropriate palliative care or other supports needed to reduce suffering and live with dignity.

We also heard from other physicians who are specialists. We heard from MAID assessors quite a bit. These are specialists who deal with any variety of injury as well as sicknesses that people who may now be eligible for MAID would have to be dealing with. The feedback we had from those physicians as well as the physicians who deal with palliative care is that 90 days may not be sufficient. Upon studying this and consulting, and then based on the witness testimony we heard, we proposed this amendment that would increase this by a modest amount.

Is 120 days the exact right number? Is 90 days the right number? We don't know. What we do know from the testimony we heard about the 90 days is that it's not enough. Therefore, 120 days is a step in the right direction.

I mentioned the physicians who deal with palliative care, but we also received a submission from Physicians Together for Vulnerable Canadians. That is the submission that had over 800 signatures, not from MAID assessors but from physicians who deal with any variety of sickness that people may be dealing with. I want to draw the committee's attention to the second page. They say, "We live in a country where the wait time to see a psychiatrist...is 4-8 times longer than the 90-day waiting period". Just for psychiatric care, the waiting list puts someone beyond the 90 days. What they're saying is that for situations where death is not reasonably foreseeable, the 90 days is woefully inadequate.

● (1950)

We've heard testimony that people within that 90 days can have ups and downs. The government acknowledges that some period of reflection is appropriate when death is not reasonably foreseeable, but what we're hearing overwhelmingly from physicians and from palliative care physicians is that 90 days is not an adequate reflection period.

Wherever you stand on the issue of assisted death where death is not reasonably foreseeable, ensuring we have the right safeguards should be something that we can all agree on, and the evidence we're seeing is that 90 days is not satisfactory. That's why our amendment would increase it to 120 days, which still may not be adequate, but we are proposing a number that recognizes that 90 is not enough in the hope that members of the committee would see it for what it is. It is a reasonable effort, where death is not reasonably foreseeable, to provide further safeguards for people who are at a very vulnerable point in their lives, to make sure they get the medical assistance that they can get and that we have more time for the provision of health care services to take effect—let alone to see those specialists—but also to have some movement towards recovery, hopefully.

We heard testimony at committee about individuals involved in a significant accident, for example, and someone who could be rendered paraplegic. This 90 days is not going to give them the time to see what opportunities they could have. That is why I'm asking that committee members consider this very reasonable amendment to increase from 90 days to 120 days the reflection time when death is not reasonably foreseeable.

I thank committee members for their consideration, Madam Chair.

● (1955)

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

I have Mr. Garrison next.

Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** Thanks very much, Madam Chair.

I want to start by cautioning my fellow members of the committee to stay away from inadvertently implying that because we have differences on how to implement the court decision that took away “reasonably foreseeable”, it somehow indicates that some of us either care more or care less about sectors of the Canadian population.

What we're really dealing with here is a situation where removing “reasonably foreseeable” has not taken away the very high bar that's been set for receiving medically assisted dying. A person must still suffer from an incurable condition, they must be in an advanced and irreversible state of decline and they must be in intolerable suffering.

Specifically with regard to this amendment, the 90 days for assessment is a minimum—not a maximum—assessment period. By increasing this to 120 days, we run the risk of enforcing another 30 days of intolerable suffering on someone who has been assessed, has made their decision and is dealing with end of life. This is not about suicide. It never is about suicide. It's about people dealing with the hand they've been dealt by nature, for whatever reason, and then trying to make certain that they have autonomy over their end of life.

I'm very much opposed to extending what is now a 90-day minimum for assessment to an arbitrary 120 days, since obviously the assessment could take longer and would take longer under the decision of both the individual and the professionals providing care if necessary.

Thank you.

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

Mr. Maloney, I have you next on the list.

Go ahead, sir.

**Mr. James Maloney:** Yes, I will be very brief, Madam Chair, as Mr. Garrison made virtually all the points I was going to make.

I appreciate Mr. Moore's comments. I do. Everybody has taken the time to inform themselves on this issue and on this piece of legislation.

What is required in the bill is to find a balance, and I believe that 90-day deadline does just that, because the risk is not in extending it. The risk is the other way around.

As Mr. Garrison has rightly pointed out, extending it could put somebody in further jeopardy, depending on their condition, but if more time is needed, the risk is eliminated because a physician conducting the MAID assessment has the option to extend the assessment. That risk is eliminated, so I agree completely with what Mr. Garrison said. For that reason, I'm opposed to the amendment.

**The Chair:** Thank you.

I have Mr. Lewis next on the list and then Mr. Cooper.

Mr. Lewis, go ahead.

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

I certainly appreciate the opportunity to once again speak to this CPC amendment. Madam Chair, this has been something else.

However, I would like to speak to this amendment. It's to extend the assessment period from 90 days to 120 days for those seeking medical assistance in dying whose death is not reasonably foreseeable. The decision to receive medical assistance in dying is incredibly complex and utterly irreversible.

An additional 30 days would add an extra layer of security to reduce the risk that someone would be choosing medical assistance in dying without proposed support or information, or because they have some other unmet need in their life. Line 8 of page 5 in clause 1 of Bill C-7 reads:

> ensure that there are at least 90 clear days between the day on which the first assessment under this subsection of whether the person meets the criteria set out in subsection (1) begins and the day on which medical assistance in dying is provided to them

The proposed amendment here is that this 90-day period be replaced by 120 days. In order to legislate responsibly on medical assistance in dying, we need to ensure that every patient making a decision for assisted death has adequate time to consider their decision and weigh it against the other options for care and pain management that are made available to them.

Dr. Mimitha Tresa Puthuparampil is a family doctor from Ontario who submitted a brief to this committee which was originally rejected due to the arbitrary deadline not being communicated to the public. In this brief, and this is important, she says the following:

> Moreover, 90 days is not enough time to access and take full advantage of mental health and palliative services for those not facing imminent death. At best, it is wishful thinking. I know the challenges of arranging follow-ups and referrals for my patients, and share their frustration at being told, time and time again, to wait. Time is required to help patients make such a decision; only after receiving the best of what medicine has to offer them.

According to the testimony of this doctor, in our current medical framework it is not realistic for a patient to receive the care they need within the timeline of 90 days. Physicians should always present life as a first option and providing care should be of the first priority. Access to care should always be available faster than access to MAID. At the bare minimum the timeline to access MAID and a timeline to access a proper standard of care should be the same. It would be completely unacceptable to have patients able to access MAID before they can access the care they need. As has been mentioned before in this committee, in some parts of our country it is easier to access medical assistance in dying than it is to get a wheelchair. Why is this government intent on making assisted death available so quickly that MAID is considered a higher priority in terms of this timeline than getting a disabled person a wheelchair?

This is a really neat one. A review of the Canada pension plan disability benefit showed that it takes approximately 120 days to complete the application process, leaving many people forced to file an appeal before obtaining benefits. Again, in the case of people struggling financially, it is easier and faster to receive assistance in ending your own life than it is to receive assistance for desperate financial struggles. If patients who are already burdened with the weight of their physical or financial conditions have to fight an uphill battle to choose life, yet their path towards assisted death is made easy, inevitably many more people will choose to end their lives rather than keep them.

It is critically important that our nation develops a proper standard of care that is easier to access than assisted death. This will prevent people from choosing assisted death for lack of a better care option. In regard to the need for better standards of care, the Canadian Medical Association Journal says:

> Previous research has illustrated that individuals with months of high levels of disease burden (physical, emotional and spiritual/existential distress) and the convergence of certain psychosocial factors leads to depression and hopelessness and ultimately to a desire for hastened death. Providing palliative care to those who have already been suffering for months and thus end up distressed and suffering enough to request hastened death is most often providing palliative care too late.

● (2000)

This is an interesting one as well. It states, “This is not even to mention the substantial minority of 22.8% of MAiD recipients in the study by Downar and colleagues who apparently had no palliative care involvement whatsoever at any time before medically assisted death.”

Bill C-7 seeks to expand access to medical assistance in dying to those whose death is not reasonably foreseeable and, in accordance with the statement made by this doctor, we should seek to be as careful as possible with these safeguards.

The Council of Canadian Academies medical experts panel wrote an opinion column for CBC news on “Why the federal government should rethink its new medical assistance in dying law”. I don't believe this has come to this committee yet, so that's why I'm bringing this forward, Madam Chair. It speaks directly to this amendment:

> For people whose death is not "reasonably foreseeable," the bill introduces an assessment period of 90 days, combined with an evaluation of eligibility by a practitioner with expertise in the patient's condition. These measures are meant to ensure that people with disabilities and chronic illness are informed of other available treatments or support options outside of medically assisted dying. But unlike any other country in the world, the new bill fails to explicitly require that all reasonable options be made available and tried first, before allowing physicians to end a patient's life.
>
> In other words, the bill makes their dying easier than living. Rather than instilling hope and helping to build resilience by focusing options for living, health care providers will now be asked to discuss an early death.

That speaks specifically to the 90- to 120-day reflection period.

Further, it goes on and points out in a portion of the article that one of the problems with the current medical assistance in dying framework in Canada is how it creates two classes of Canadians. For young and healthy Canadians, suicide is discouraged. We put a great deal of emphasis on and effort toward suicide prevention, and rightly so. There are suicide help lines, mental health care, support groups and a lot of other resources to keep Canadians alive and help them work through the struggles they are facing.

However, the easy access to assisted death in Canada has the potential of making vulnerable and disabled Canadians feel that their lives are of less value than those of other Canadians. The reason for this is that when they feel suicidal, those thoughts are affirmed to them, and they are presented with assisted death as a viable and good option to relieve them of their pain and their struggles.

In other words, when some Canadians confront temporary suicidal ideation, they will receive suicide prevention. When other Canadians confront temporary suicidal ideation, what Canadians living with disabilities are asking us is the following: Why do some receive suicide prevention while other people receive suicide facilitation? Isn't that something that is communicated about the social and political views of the value of certain people's lives if they are in the category that is offered suicide facilitation?

Further on, and specific to this amendment, we have to recognize that choice is exercised in a social context in which people choose between the realistic options that they have lived and experienced. How is it autonomy when people may not be able to access care before the end of the 90-day timeline? That is why we need to, at a minimum, give people that space of 120 days so that they, at the very least, have the real option of real care put in front of them.

● (2005)

Dr. Harvey Chochinov, professor of psychiatry and family medicine at the University of Manitoba, was one of the witnesses this committee brought forward, and we had the pleasure of hearing from him. He completed a study on terminally ill patients who will live to the end of their lives.

According to The New York Times' coverage on this report:

> [The doctor] and his colleagues studied 168 cancer patients admitted to the hospital for end-of-life care. The patients were screened to make sure that they had the mental competence and the physical strength to participate in the study, which involved filling out a questionnaire twice a day—

There's very important information coming up here, Madam Chair.

> —a process that [the doctor] said took about a minute—and continued until shortly before death. The participants were asked to rate themselves on 100-point scales measuring pain, nausea, appetite, activity, drowsiness, sense of well-being, depression, anxiety and shortness of breath. They also rated the strength of their will to live.
>
> ...Over a 12-hour period, [the doctor] said, the patients' will to live could fluctuate by 30 percent or more. Over a 30-day period, the shifts were even larger, on average up to 60 percent or 70 percent.
>
> “These large fluctuations suggest that will to live is highly unstable,” the researchers wrote.

The study goes on to speak about the very objective that—

● (2010)

**The Chair:** Mr. Lewis, I would encourage you to continue to connect your points to the amendment before us, because I'm kind of getting lost trying to take notes of what you are saying, and I don't see how there's relevance here. If you can please get to your point, I'd appreciate that.

**Hon. Rob Moore:** I have a point of order, Madam Chair.

I think we're kind of treading on a little bit of dangerous ground here. We're dealing—if I'm not mistaken—with Bill C-7, which deals with assisted dying in Canada. There are a number of amendments. I think, certainly, that what I heard from Mr. Lewis is on point. We're talking about amendments that deal with assisted dying, amendments that we're dealing with tonight in clause-by-clause. I don't want to point out—or I didn't want to—Liberals' talking about boxers versus briefs the other day in another committee. That, I would agree, would be irrelevant.

**The Chair:** We're not.... I completely understand and agree, Mr. Moore. For example, when you were speaking to the specific amendment, you spoke about how you conferred with your colleagues, and you spoke using the terms “we” and “our”, speaking for your colleagues.

You specifically spoke about the intention behind this specific amendment, CPC-6. You spoke about the impact of increasing the days to 120. They were very healthy points. Then Mr. Lewis talked about the disabilities angle, the deadlines and suicide ideation and how that is all impacted by this amendment.

What I am not understanding is what his most current point is about, so I was hoping that he could come to the relevance of the point he was making so that I could better understand it.

Thank you for that point of order, though, Mr. Moore.

Go ahead, Mr. Lewis. You can continue.

**Hon. Rob Moore:** I'm still on that point, Madam Chair. Every member of this committee is an equal. Every member is entitled to participate within the rules as they see fit—every one of us, whatever party background we're from. I don't speak for any member on this committee other than myself. Every member is entitled to speak to these important amendments to what is a very important bill.

I don't think that it's speeding things along at all for these points to continue to be raised because members of Parliament—as far as I've heard—are doing their jobs by raising concerns, whether in favour or against particular amendments. Thank goodness, so far, everything that's been said—and this is on this point, Madam Chair—is relevant to this bill and, in fact, relevant to the specific amendments, unlike, certainly, what we've seen and heard in other committees.

I think you're doing a great job, but so are all the members. I hope that we can continue to have a respectful discourse within the rules that we are provided with as members of Parliament, and not infringe on the opportunities of every single member—nobody speaks for me, and I don't speak for anybody else—to make the points that they wish to on each and every amendment. Those are the rules we have.

Thank you.

**Hon. Kerry-Lynne Findlay:** Madam Chair, on that point of order, I feel like the goalposts keep changing here.

At the risk of my colleague, Mr. Moore, taking back what he said before—that he agreed with me on something—and with all due respect to him, I've never understood it to be a rule that when someone moves an amendment, that he or she is then speaking for every member within that party on that amendment. You took great pains to go through some of Mr. Moore's points, and then you said he used the terminology “we” or “our”. That's very common terminology. I often use the collective “we”, but that doesn't mean I'm presupposing what someone else would say.

This really relates to my earlier point. I don't think anyone, including my own colleagues in the party that I represent, should be put in the position of speaking for me. They probably wouldn't want to do that. I don't want to do that for them. I maintain my right as an individual Parliamentarian to speak. I hope that's not what you were suggesting.

● (2015)

**The Chair:** No, not at all.

Thank you, Madam Findlay.

Mr. Lewis, you can go ahead with your comments.

**Mr. Chris Lewis:** Thank you, Madam Chair. Thank you to Mr. Moore and Ms. Findlay for their remarks.

Madam Chair, if I was off topic earlier, I certainly apologize. I personally believe that everything that I was speaking about was relevant. That's why I kept to referring back to the 90-day and 120-day periods.

I'm going to end my comments, which may or may not be relevant. In an effort to work with the committee, I'm going to finish it this way, because quite frankly, I feel I'm doing an injustice to my constituents by not finishing up what I wanted to say. However, I'm a team player, and I want to make sure that I'm following the rules.

I'll put it to the committee this way, 90 to 120 days. Let's talk about 90 to 120 minutes, and about things that we could talk about in 90 minutes, and things that we could talk about in 120 minutes. Although I feel as though I'm being muzzled here, let's suggest I got to talk for 90 minutes, and somewhere between the 90th and 120th minute, something else came to me. I saw the light. There was another piece of information that had come forward. That might be enough to perhaps change the discussion, change an idea, change a heart, change a feeling. Who knows what that looks like?

At the end of the day, this is a great amendment. The CPC amendment is a very important amendment. Forget about the minutes. Let's go back to the days, and the reflection period that's needed. Sometimes an extra 30 days could literally mean life and death. It would be a complete injustice to this justice committee if we don't support this amendment.

I will have a lot to say on the remainder of the amendments going forward. If I'm off topic, please remind me, and I'll do my very best to stay on topic, but I will have a lot to say there as well.

Madam Chair, thank you for the great job that you continue to do.

**The Chair:** Thank you very much for that, Mr. Lewis. I look forward to your continued comments on these amendments in the order they arise.

I have Mr. Cooper next, and then Mr. Thériault.

**Mr. Michael Cooper:** Thank you very much, Madam Chair.

I want to speak in support of this amendment. I believe it is a modest amendment that would extend the waiting reflection period of 90 days to 120 days. I think this is required in the face of the evidence that we heard. In fact, I would submit that 120 days probably is not enough, but when comparing the 90 days as provided for in the bill versus the modest amendment that we put forward, it is an improvement. What good is a 90-day period when we have evidence that it can take three or four times as long to get psychiatric supports? What good is a 90-day period when one might not be able to access palliative care within the span of 90 days, let alone undertake meaningful palliative care treatment?

Then you ask, 90 days from what day to what day? Under the bill, it's not even 90 days from the time that a request for medical assistance in dying is made. It is 90 days from the first assessment. We will be seeking to address that issue in a subsequent amendment, but I only cite it to underscore the complete inadequacy of the 90-day reflection period as currently provided for in the bill.

I would note the words of Dr. Harvey Chochinov, the distinguished professor of psychiatry at the University of Manitoba, someone who has done significant work in this area, having served as the chair of the external panel. When he was asked about the 90-day reflection period, he stated:

> The 90-day clock...is very problematic. There have been a number of studies. For example, a Manitoba study actually found that after 90 days of being diagnosed with a major physical impairment, patients reach a peak in their suicidal ideation. They continue to be suicidal, although it wanes, as much as a year later, and thereafter it's still greater than their match cohort, so 90 days is certainly not an opportune waiting time.
>
> The other thing is that we know that it takes a great deal of time for these people to be able to avail themselves of expertise. Patients who are highly at risk, for example those with chronic pain, may have to wait six months or more, depending on what part of the country they happen to live in, in order to get access to care. My specialty is psychiatry. Again, the waiting list for good psychiatric care is in the neighbourhood of months, up to a year, depending on what part of the country you're in.
>
> The 90 days is problematic for all those reasons, which in large measure are data-driven and data-informed.

I think that summarizes the issue with the inadequacy of the 90-day period, and it's on that basis that I would support this modest amendment to extend the period, because I think we have to proceed with caution. We are talking about a procedure that, if carried out, results in the termination of one's life. There is no opportunity to reverse the decision once the procedure is carried out,

● (2020)

I think this amendment's having regard for that is perfectly reasonable and necessary to protect vulnerable persons, again, given the increased risks they face when the reasonably foreseeable criterion is removed. That is the category of patients who would be the subject of this amendment.

Thank you, Madam Chair.

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

We will now go to Monsieur Thériault.

Go ahead, sir.

[*Translation*]

**Mr. Luc Thériault:** Thank you, Madam Chair.

It is perhaps appropriate to recall the context of this bill. Many things are being said, and at a certain point, they completely confuse the basic issue.

Suicide in Canada is decriminalized. Assisted suicide is still a criminal offence, barring certain exceptions. We did not decide that this evening. Rather, the courts told us that the legislation violated the right to life. There was Bill C-14 and, before that, the Carter decision, which led to Bill C-14. Mr. Lewis says that we are encouraging suicidal people to commit suicide. However, it is quite the opposite.

I cannot fathom how the justices in the Carter decision, who told lawmakers to go back and do their homework, would react. How would Justice Baudouin react to the comments I have just heard, which are an all-out assault on the courts' interpretation that led them to tell lawmakers that the current legislation violates the right to life of people with irremediable conditions and intolerable pain and suffering? The courts are of the opinion that people are currently being compelled to act before they would want to do so, meaning when they have passed the point of what is tolerable for them. According to the current legislation, they are being compelled to commit suicide; that's what the Superior Court said. They are being compelled to end their lives prematurely.

I really want us to try to justify a rather straightforward amendment that we could have voted on pretty quickly, but here we are. We need to respond to the court's ruling with Bill C-7. We must return to the fundamental issue. The court told us not to violate the right to life of people with irremediable conditions experiencing intolerable suffering. They want to live until they have passed the point of what is tolerable for them.

That does not happen after an accident. Someone who has an accident tomorrow morning and becomes quadriplegic might become suicidal and would receive care for that state. Over the course of their care—because we do provide care for people—they could one day decide to request MAID, and that request will then be assessed according to the safeguards set out here.

Out of respect for the work we must do, let's not confuse the basic issue. I know that we are presenting all the arguments we can, but the purpose is not at all to encourage any suicidal state. Let me repeat that suicidal states are reversible. We are talking about access to medical assistance in dying and a person's ability to make that decision, which is not made lightly. People at that stage will have exhausted all other options over the course of their care. Paragraph 241.2(3.1)(g) ensures that people will recognize the full range of care available to them and all options they have.

I'm ready to vote.

● (2025)

[*English*]

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

I have Madam Findlay next on the speakers list.

Go ahead, Madam Findlay.

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

I want to speak in support of this amendment. I recall that during testimony, Dr. Heidi Janz, who is with the Council of Canadians with Disabilities, gave testimony. She's a medical doctor herself, I believe. She was in a wheelchair. She referred to this as norm-shattering legislation.

I feel sometimes, when we're debating back and forth, that we're getting into a flavour of “this is not that big a deal”. It is a very, very big deal. That's why it's in the realm of criminal law. That's why we can't take it lightly. For the very reason we have laws around capital punishment, where long ago Canadians said we're not going to have capital punishment anymore, which I agree with, was that even if, after some heinous act, it would seem that maybe the state should put someone to death, if we should put to death just one innocent person who turned out to be innocent later or was improperly convicted, that would be a terrible thing.

This is very important legislation. This is a modest amendment. I believe the 90-day provision, as far as I know, is basically an arbitrary number. I'm happy to hear from my Liberal colleagues if it's otherwise, but from what I've heard in testimony before us, it's basically an arbitrary number. We are suggesting 120 days. It's not a big difference, but the difference would allow people contemplating this to have enough time to make sure that they are fully aware of the availability of support, that they have access to care, that they know what care they have access to, and that they have at least the chance to access quality palliative care. We've heard testimony that 70% of Canadians do not have adequate access to palliative care. Maybe they can access this by going somewhere different, or to the next county or next town—I don't know—but it takes time to figure those things out.

I would be very concerned to think that anyone makes these decisions based on inadequate support or not having the appropriate care in a timely enough fashion. We don't like to think that happens, but we know it does happen. We've had people who have been in the news. It's been a matter of comment and a matter of testimony that there are some people who have in fact chosen MAID because they felt they had a lack of care and they weren't sure how to access it or where to get it.

One of the submissions that we were sent happens to be from the Canadian Conference of Catholic Bishops. I should say off the top that I'm not Catholic, but what was said in here seems to me to be very telling:

> The pastoral experience of the Bishops has shown that patients are more likely to request...assisted suicide when their pain is not properly managed by good quality palliative care, when their dependence on others to provide assistance and support is not adequately met, or when they are socially marginalized. Palliative care, which has yet to become fully available and accessible in our own country, offers a compelling answer—the only respectful, comprehensive and ethical alternative to what the Government is trying to address through [this] legalization....

I'm paraphrasing here and shortening it a bit. They said that palliative care seeks to alleviate the pain, loneliness, fear, distress, and despair, which [*Technical difficulty—Editor*] where no such emotional and psychological support is available, to the tragic failure that the option or choice ends up with assisted dying.

● (2030)

Also, the stress here on the COVID-19 pandemic has painfully revealed that fear, distress and despair are not uncommon realities among our fellow Canadians and family members in assisted living and seniors residences. We all know that COVID-19 has disproportionately hurt and disproportionately affected our fellow Canadians in seniors residences. We know. We have stories. We have testimony. We have testimony from military personnel who went in to assist, which was, I think, a very good initiative of the government. They found some of our seniors in deplorable conditions. The distress and the isolation it causes can lead people to make these choices when they might not otherwise.

The 120 days is meant, in my view, to allow the full complement of what might be available so we know that when people are making these decisions they're not doing it prematurely. They're not doing it because of lack of access to care. They're doing it because their situation is truly intolerable, and they've then made a conscious decision to access this end of life. However, it should never be because they haven't yet had a chance to do that. The 120 days just gives them a little more of a chance.

We've heard testimony that there is all kinds of support—health care support, emotional support and otherwise—that is not available within the 90 days. We've also heard testimony that 90 days is a turning point—I think MP Cooper referred to this—often after a catastrophic illness or injury when people can start to accept. Let's give them that chance.

Thank you, Madam Chair.

● (2035)

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

I'll call the question now on CPC-6.

(Amendment negatived: nays 7; yeas 4)

**The Chair**: Mr. Moore, I have CPC-7 next if you would like to move that and speak to it.

**Mr. Chris Lewis:** I have a point of order, Madam Chair.

**The Chair:** Mr. Lewis, go ahead, sir.

**Mr. Chris Lewis:** Thank you Madam Chair. I appreciate that.

In recognition of time, we're now past the time of 8:30 that this meeting was scheduled to go to. With respect to our government assistants and officials, I am asking that this committee be adjourned until tomorrow at 11 a.m. I'd like a recorded vote, please.

Thank you.

**The Chair:** Mr. Lewis, your motion has a condition to it and, therefore, is debatable, unless you'd like to change the wording of your motion.

**Mr. Chris Lewis:** If perhaps I could understand what the portion is that's debatable, I would certainly change it. I just need to know the verbiage.

**The Chair:** It's the 11 a.m., I believe. The language you're looking for is minus the when we're meeting next.

**Mr. Chris Lewis:** I understand. Thank you for the clarification.

Minus the when we're meeting next, I would ask that this committee adjourn the meeting.

**The Chair:** Thank you.

Madam Clerk, could you please record the vote?

(Motion negatived: nays 7; yeas 4)

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

The meeting is not adjourned. We will continue with CPC-7.

Mr. Moore, would you like to move it and speak to it?

● (2040)

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

I'd like to move CPC-7. To be clear, I am moving it and I am speaking only for myself when I speak with regard to CPC-7.

I'm sure that we've all read the legislation. In Bill C-7—and a number of people have consulted with some individuals on it—there doesn't seem to be clarity around when the 90-day reflection period begins. It's incumbent upon us to have certainty in our legislation. We've chosen vagueness when it comes to reasonable foreseeability. There are some terms that are certain, such as the 90-day reflection period. We're saying that it's 90 days. We just defeated an amendment that would have made it 120 days.

CPC-7 amends Bill C-7 to read:

> ensure that there are at least 90 clear days between the day on which the request under paragraph (b) was signed by or on behalf of the person and the day on which medical assistance in dying is provided to them or — if the assessments have been completed and they and the medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the loss of the person's capacity to provide consent to receive medical assistance in dying is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;

That last part is relevant to our previous debate in that the 90-day period can be shortened. However, what's not clear in Bill C-7 is when the 90-day period starts. This particular amendment provides that certainty.

This is important because, as has been mentioned, we're dealing with decisions around life and death. We're dealing with something where doctors, nurses, health care providers, family members and individuals who may be considering MAID need to have certainty around the process.

Part of the certainty around the process involves safeguards. The government, in Bill C-14, included a number of safeguards. Some of those safeguards involved the period of reflection. The period of reflection enables an individual, upon requesting MAID.... It gives the person time to change his or her mind, to consider further circumstances, to have a period of reflection. That period in Bill C-14 was 10 days. That was seen as appropriate.

We have to remember that one of the requirements in Bill C-14 was that death had to be reasonably foreseeable. Following the Truchon decision—this was a Quebec Superior Court decision—we argued that the government at the time should appeal the decision in order to provide more certainty around the law. Normally, especially with a new law such as Bill C-14, it's incumbent upon the Attorney General and the government to defend its legislation. We argued that.... There I am, using the word "we" again, Madam Chair. I'll say that I argued. I argued that we should have appealed that decision, that this would have been the right thing to do. Instead, the government brought forward Bill C-7.

● (2045)

Bill C-7 includes a 90-day reflection period for individuals who are seeking MAID where death is not reasonably foreseeable. What Bill C-7 doesn't include is explicit and certain terminology that can be universally understood about when that 90 days starts. It's not clear whether it's when a person has been formally assessed for eligibility for MAID or when they're informed that they are eligible for MAID. It's quite unclear.

We want to provide that certainty, and we want to provide that it is at a moment in time when the person—and this should be the start point—has specifically requested MAID. That is when that point should begin. That point should only end, of course, after the full 90 days is complete. We had argued that 120 days would be more appropriate and that was defeated, so it's when the 90 days is complete.

I'm happy to move CPC-7, and I'm happy to answer any questions that committee members may have on this amendment.

Thank you, Madam Chair.

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

I have Mr. Virani next on the list.

Go ahead, Mr. Virani.

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

The upshot of this kind of an amendment would conflate the concepts of an assessment period and a reflection period.

An assessment period is a minimum safeguard that is meant to ensure there is enough time devoted to MAID assessments of persons whose death is not reasonably foreseeable, whereby the eligibility determination can be made only after the assessment is completed. We're trying to give enough time to make that assessment.

A reflection period is in contrast to that. What reflection does is it allows for a minimum period of time that would have to elapse after a person is found to be eligible. Its purpose is to give the person, who knows that they can obtain MAID to relieve their suffering, a brief pause to reconsider their wishes before deciding whether or not to proceed.

If we proceed with this type of an amendment, it would cause two problems. First, it would fail to set the minimum standard with respect to the time needed to assess such requests, and second, it would unduly prolong the suffering of persons who are found to be eligible.

On that basis, I would be opposing this amendment.

Thank you.

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

Madam Clerk, I'll call the question at this time on CPC-7.

(Amendment negatived: nays 7; yeas 4)

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

Mr. Cooper, were you saying something?

**Mr. Michael Cooper:** At this time, I'm going to stand down and have Mr. Genuis sub in for me.

● (2050)

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

Welcome to our committee, Mr. Genuis.

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** Thank you. It's great to be with you.

**The Chair:** We appreciate having you here.

Now we're moving on to CPC-8.

Mr. Moore, would you like to move it and speak to it?

Go ahead, sir.

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

I'm happy to move CPC-8.

CPC-8 requires that we inform a patient of advance consent before proceeding with MAID. This amendment would require in the case of advance consent that a health care provider inform a patient of their advance consent on the day that assisted dying is to take place and, if possible, give them an opportunity to respond and indicate whether they would wish to proceed or not. This amendment is supported by important stakeholders, including the Canadian Society of Palliative Care Physicians.

The concept of advance consent is something that has been debated but was included in Bill C-7, even though it was not required in a response to the Truchon decision. The position that I feel would have been appropriate was to have appealed this decision. Instead, the government took the opportunity to respond in Bill C-7 to the decision. It did not just respond to the decision, but went beyond responding to the decision. The decision of the Superior Court of Québec said that it was unconstitutional and violated the person's rights that death had to be reasonably foreseeable.

We don't know what the Court of Appeal would have done with that decision. We don't know what the Supreme Court of Canada would have done with that decision. The decision could very well have been overturned. It could have been found that there was no violation of rights. We don't know that because the decision wasn't appealed and the government did not defend its own legislation.

The government didn't just respond to the court decision. A number of the amendments that we've put forward, including this one, relate to the removal of safeguards that were included in Bill C-14, but there are also new concepts included in Bill C-7, which include a waiver of final consent. It means that if a person has lost the ability to consent, the person can waive that and still receive MAID. What this amendment would do is to take the steps necessary to see if contemporaneous consent can be given before MAID is provided.

I've mentioned the Canadian Society for Palliative Care Physicians. They've had a number of recommendations. I spoke about a couple of their recommendations in some of our other amendments. I want to draw your attention to their third recommendation, which is "to maintain [the] requirement for capacity to consent at the time of provision of MAiD". They say:

> A person should be able to change their decision up until the time of the procedure. The proposed changes in Bill C-7...remove that opportunity from a person who loses capacity after previous consent. Furthermore, the determination of whether or not a person does wish to withdraw their request after losing capacity to consent by way of words, sounds or gestures, is problematic in its potential subjectivity and may put clinicians in a precarious situation by having to interpret these responses. MAiD may be requested simply because the level of care required by the patient who has lost capacity exceeds what is currently being provided.

We've already discussed the issue of palliative care, but this is in the context of their recommendation, which is to not include the waiver of the final consent. That's not what this amendment is about, but this amendment speaks to the concern that's being raised by palliative care physicians. It is that we should, if possible, inform the patient who has given advance consent before proceeding. We should make an endeavour to get that response of whether to proceed or not proceed before taking the steps that would end this person's life.

● (2055)

I appreciate this recommendation. It's a recommendation that the palliative care physicians support. It's a safeguard amendment that would provide.... I don't think we can ever take lightly the gravity of the type of legislation we're dealing with, and this does involve a person's life and death decisions. Every possible safeguard should be put in place.

That is why I'm moving CPC-8. The Canadian Society of Palliative Care Physicians feels that this type of amendment is a responsible one. I ask that committee members to consider this amendment and to consider the source of the support for this amendment: physicians who are dealing with people in end-of-life situations.

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

I have Mr. Genuis and then Madam Findlay.

**Mr. Garnett Genuis:** Thank you very much, Madam Chair.

First of all, it's a pleasure to join you here at the justice committee. I have been following the debates in the House on this bill, as well as here at committee from a distance. I appreciate the opportunity to join the conversation.

I salute the work of all the members on this committee because having heard some of the testimony from people like Mr. Foley and others, it is very powerful testimony. I know not every member has been in a position, maybe because of their party, where they've been able to let on to have been moved by that testimony, but it can't help but have moved all of us to some extent as we see it. I just want to recognize, not the toll in the usual sense maybe but the emotional toll that these conversations are taking on all of us.

I was part of the debate, in a much greater sense, the first time this bill went through. I proposed a number of amendments myself at the justice committee.

My grandfather who was in a home passed away around the same time that this debate was going through the House, so all of us as well, as we contextualize what's happening, I know we are thinking about the things that may be happening or have happened in our own lives. That's particularly poignant, given all those who are suffering as a result of the isolation associated with the public health measures that need to be in place right now.

I recall specifically four years ago when this was being discussed, the importance of the question of advance consent. This amendment speaks to maybe trying to find a middle ground on the question of advance consent. The arguments of those in favour of advance consent—and these arguments were made at the time in the House—said that a person who perceives what their future would look like under certain circumstances and does not want that future, but also if that future takes place in a context where they're cognitively not able to rise to that legal standard of decision-making, there is some sense in which, if they're able to make the decision in advance, they should be able to.

That's the argument behind it, that somebody who experiences cognitive decline, as well as an increase in the pain they're feeling, shouldn't be prevented from making a decision that they would want to make if they were able to make that decision. In the absence of being able to have that decision take place in the moment, the idea of advance consent is that we would, in a sense, substitute the decision-making in advance. That is the logic, the ideal that is being aspired to.

Although the government decided not to proceed at the time, I think they were quite persuaded by some of the arguments made around the Audrey Parker case. This case was used to make the argument that if a person is not able to consent in advance about some future point, then they will make the choice to die before they would like to die.

What's striking about that case to me is that the law as it was written, Bill C-14, is supposed to only apply in a case where a person is in that moment experiencing serious and irremediable suffering. I always had a hard time in my mind squaring the circle of how it is that a person says, yes, they were experiencing serious and irremediable suffering in the moment and also wanted to be able to choose the moment to die, but they wanted it to be at such and such a point in the future, and not at this point.

I'm not taking away from the sincerity of a person who makes that decision in that moment. I'm just saying it was a hard thing for me to understand, but this was the direction of the argument.

● (2100)

On the other hand, those who were concerned about advance consent.... I was one of them. I made a few different arguments and I think those arguments still apply in the context of this amendment.

First of all, a person who makes a decision in the moment—who actions consent in the moment—is the only kind of consent we accept in law. I cannot consent in a way that binds my future self to some action. In the spirit of liberty and in the spirit of autonomy, we do see future selves as being distinct from present selves. There is a sense in which I am the same person I was five years ago, but there's also a sense in which I am a different person from the person I was five years ago. The person I was five years ago—let's say at the time the bill was first being debated—might have different thoughts about the issue, might have made different decisions and might have engaged the parliamentary process in a different way, and so forth.

The difference in the self I am now and the self I was then is that I have learned new things. I have also adapted to new circumstances. Things that I thought would be easy maybe turned out more difficult. Things that I thought would be difficult maybe turned out easier than I thought. The decisions I make today in the moment respond to the circumstances that I find myself in and the evolution or the changes that I may have gone through in between that point in the past and the point now.

We can all accept that as a general principle in the course of our lives, which is why we generally say in many different contexts that consent is consent in the moment. It's when you say yes to something in the moment. If you say yes to something and then a few minutes later you say, no, you don't actually want to proceed, then the present decision to say no overrules the previous yes. People change their minds. They absorb new information. They feel differently and they feel in ways that they didn't expect they would feel under certain circumstances.

What is true as a general principle is true in a particular way for those who have experienced some dramatic change in their life, like the onset of a disease or some kind of dramatic change in their health status. People don't really know how their life would be different if something that has been a big part of their life or something that they have taken for granted suddenly ceases to be there.

There's a lot of data around this. Part of what interested me about this whole question of advance consent versus present consent is that I did my master's dissertation on the idea that you could measure happiness. It is a really interesting field and important for how we benchmark our social goals and so forth.

One of the things about the happiness data is that people adapt to dramatically new circumstances in ways that they don't expect. That adaptation varies dramatically across different kinds of circumstances. A person might expect that if they were to get into an accident and have a disability and a change in their function, that person might, before that happened, expect that it would have a much greater impact on their quality of life. That's often the case, actually, for physical disability. At least, that is what the data suggests, that what they might expect as the loss of well-being that they would receive as a result of experiencing a physical disability is actually much less than the actual loss of well-being.

I'm certainly not an athlete, but suppose I was. I might think that if such and such a thing happened to me I wouldn't be able to do all these things that I liked doing and therefore my life would be so dramatically different it would be hardly bearable. Then at that future point, having been through a process of adaptation, having taken on new interests and having developed new hobbies, I may find myself thinking that, actually, I wish that accident or whatever it was hadn't happened to me, but my ability to adapt to the circumstances that I've been through is much greater than I thought it would be.

● (2105)

That's not the case in every case, and there is wide variation in terms of the way different things impact different people.

The point is that it's very hard to predict. If you ask me to make an advance directive, if I were to get this illness, if I were to have this particular kind of loss of functioning, and if I were to experience this change in my life, at what point and under what circumstances would I want medical assistance in dying? That current self projecting what the desires would be of that future self would be so imprecise to what my actual experiences were in the moment when I actually had those changes take place.

This is the core problem, at least with the idea of an advance directive. At the time, we were talking about this four years ago. There was advocacy for the idea of an advance directive, which is where a person could say—

**Mr. Arif Virani:** Madam Chair, I have a point of order, again, regarding the point you made about relevance.

This provision and this law deals with advance consent. An advance directive is the subject of the statutory review study, which is yet to take place. What is the relevance of this particular point being made by Mr. Genuis? Could you rule on that relevance piece, Madam Chair?

**The Chair:** Thank you for raising that, Mr. Virani.

Mr. Genuis, I would ask you to keep your comments within the scope of Bill C-7, and specifically, this amendment.

**Mr. Garnett Genuis:** Absolutely, Madam Chair. I will respond to what Mr. Virani said. We made an argument at the time about a slippery slope. There is the speed with which the government is first saying these safeguards are necessary, and then removing safeguards. We see this process continuing.

It's evident in his comments again today when he says that there's going to be a statutory review of that issue. He knows that the Council of Canadian Academies looked at these same issues, and it said to be very cautious. The purpose of a statutory review should be to look at how well the legislation is working in general. It's very striking that we have the parliamentary secretary saying that the government is going to define the scope of the statutory review to only look at new additional things.

In terms of his point of order—and I don't think it's really a point of order but more a point of debate—I was making a point about the problems with advance directives, as such, and the way that—

**The Chair:** Mr. Genuis, I've already ruled on that point of order. You're just continuing with your arguments on CPC-8 at this time, and not on the point of order.

Please continue.

● (2110)

**Mr. Garnett Genuis:** There's a distinction, then, between what the government is trying to do in this particular section of the legislation, which is inserting the issue of advance consent as a supposed alternative to the idea of advance directives. That is a narrower construing of the idea of an advance directive, in that it doesn't prescribe specific conditions on which someone else needs to rule in the abstract on whether or not the conditions that have been put in place in advance apply. Rather, it deals with the question of a person setting a specific date. It might be a person today saying, "On January 30".

Shall I continue?

**The Chair:** Yes, of course. I understand now that you're subbing in for Mr. Lewis and not for Mr. Cooper. I was just clarifying that with the clerk.

**Mr. Garnett Genuis:** Excellent.

This provision that we are amending is described as being distinct from the notion of an advance directive, but it still applies the same general principle, which is the idea that a person can consent in advance and say what their future self would do or would want under certain circumstances. That has all of the same problems as the advance directive I talked about.

This legislation already accepts the principle that still-present consent should overrule past consent. It says that if a person in the process of having euthanasia or medical assistance in dying administered to them in the moment reacts in some way, if they evidently show that they are not interested in what's happening, then the process must at that point stop.

That's a good principle, to say at least that if you're going down this somewhat dangerous road of advance consent that you at least accept that contemporaneous consent in theory overrules advance consent, except there's nothing here to require that the patient be told in the moment what's actually taking place.

As the law is written right now, if a person is already on an IV, then the contents of that IV could be altered such that death could be administered, and there would be no legal requirement that the person be consulted, be spoken to or be told what is happening in the moment. Something could be put in their food or in their IV, and on the basis of their advance consent, that would be considered totally legal.

The public's first response to hearing about this idea of what could happen might well be that it's just crazy that anyone would do that. Of course, no doctor would do that. We can hope that people would be reasonable, surely, and the reasonable thing to do in the moment is to, of course, consult with the person and to say to them, “Okay, sir or ma'am, is this something you still want? You had expressed this desire three months ago. Based on your circumstances right now, is this something you want to proceed with, and can we facilitate this moment in some way that's meaningful for you? Should we invite your family?” Those would all be the reasonable things to do.

I think it stands to reason that if we accept that that is what should happen in every case, then we should put language in the law, and we should put in place a safeguard to ensure that would happen in every case. That's what this amendment proposes to do. It proposes to put language into the legislation that prescribes the procedure by which there is at least a check-in with the person in the moment to confirm whether their desires are still consistent with their desires of the past consent.

Maybe the question that follows as well is whether this is consistent with the principle of advance consent, because if you're asking the person in the moment, then why have advance consent at all? The purpose of advance consent was to respond to the possibility that a person would experience some decline in cognitive function such that they would not be able to make that decision at that future point.

If today I think that I want to have MAID on February 20, and I worry that my cognitive ability by that point might be such that I'm not able to consent on that day, then I can give the advance consent now for that date based on present irremediable suffering.

● (2115)

Then, on February 20, maybe that decline I worried about will have taken place and maybe it won't have taken place. Either way, if I've lost cognitive function or my cognitive function has declined, then in that moment I will still be asked, but if I'm not able to answer or to understand, then my prior wish will suffice.

The effect of this amendment, in total with the existing section, is that it allows the prior wish of the person to be inserted into the moment, in place of a lack of response one way or the other. However, it does not overrule contemporaneous consent, and that contemporaneous consent, to be meaningful, is sought. That's what the amendment seeks to do. It provides a safeguard. We've talked a lot about safeguards. This is an example of a safeguard that the legislation needs in order to function well.

It's been interesting listening to the conversations around the whole concept of safeguards. Some members will come up with the idea that we trust health care providers and that these kinds of safeguards—provisions like this—aren't necessary because we would trust that people who are in these situations will do the sorts of things we would categorize as reasonable.

The reason we have safeguards—recognizing that there are tens of thousands of physicians in this country, and on top of it, there are nurse practitioners who are authorized to perform medical assistance in dying as well—is that we cannot guarantee that everybody in every case will do the right thing. That's why we need safeguards.

We've heard testimony that suggests there are cases in this country, and many of the people who have been impacted by those cases have come before this committee.... I don't doubt that there are people who have been impacted by cases like that who have not come forward for whatever reason. It's probably a small minority of the cases of people who were impacted where people have actually come forward.

We've heard testimony before this committee of people who have been in situations where it was made clear to them that the doctor, or some other member of the staff or people in that institution, thought that MAID was something they should go for. It is very troubling to me that we have cases where the system is saying that person should have MAID and suggests it. There was a case, and I can't recall the specific name, where a mother was told that in not wanting MAID for her daughter, she was being selfish. The same was being told to individuals themselves. We have cases where a person's very natural and very healthy—I would argue—desire to live is being described by the system as an act of selfishness. I think that should speak to the need for safeguards.

If you have a case where the system, physicians or people in a "care situation" think that a person should be receiving medical assistance in dying and the person has made the advance request.... Suppose it's a situation where the patient is viewed as difficult by their caregivers for whatever reason. When it comes to the day when that advance request is set to terminate—where the end point was set be—I would submit that in that kind of a case, this sort of safeguard is especially necessary.

● (2120)

If it is the paternalistic view of somebody else that MAID is something that this person should have in the moment, I wonder how much less likely it is that they will actually do that proper consultation, do that "reasonable" thing, and ask the patient, "By the way, you made this advance request. Today is the day. Are you ready? Are you sure? Is this something you want to proceed with?"

That's where we come to safeguards. We listened to the testimony of people like Mr. Foley. I believe the committee heard from Ms. Hyatt, a young woman with a disability who had the experience of going into a hospital with, in the scheme of things, a relatively minor complaint. She was asked in the moment if she was sure she wanted the care. This is the lived experience of many people who testified before this committee.

I find it striking as well, then, when we talk about the need for safeguards, that this committee has heard from many different disability organizations that have raised these concerns and that have flagged the problems in the legislation. I think all of the disability rights organizations, at least all of the ones I've been able to hear in following this committee, have spoken about the need for safeguards and the concerns they have with the legislation as written, the need for amendments and the need for amendments that protect people's fundamental rights.

I would like to say as well that if we're going to properly consider amendments like this, we've missed the opportunity to hear from so many other people. Conservatives have been proposing that we actually hear from a broader range of witnesses. We missed that opportunity because of the way in which the government disrupted the parliamentary calendar and then created this artificial timeline after the fact.

**The Chair:** Mr. Genuis.

**Mr. Garnett Genuis:** We needed to hear more about the cases of people who could be impacted by an absence of safeguards. When you have a situation where somebody is making an advance request, under whatever circumstances....

You know, I think we'll have to see how this plays out as well with advance requests. I don't doubt that the legislation will, in some form, pass. Then when advance consent is in place we'll be in a situation where it may be that people sign the advance consent to give themselves the option, even if they're not entirely sure what they would want in the moment. You could imagine a situation quite reasonably in which a person fears cognitive decline. They don't want to be in a situation where they're suffering physically and they're not able to access care, but then they are able to receive access to care that they didn't expect.

We've talked as well here about the availability of palliative care, how long it takes for a person to get a palliative care assessment and the lack of availability of palliative care in general. I might hope that in some of the cases we've talked about, a person might actually be offered and receive palliative care in the intervening time and that a person who is experiencing severe pain and suffering in the moment might have, after whatever prescribed period laid out in this legislation, been able to access care that they had previously thought would just not be possible.

These are just some of the challenges around advance consent as well. I spoke earlier about the issue of adaptation, people adapting to different circumstances. I think we also have to take into consideration the way in which care adapts and different—

● (2125)

**The Chair:** Mr. Genuis.

**Mr. Garnett Genuis:** Yes.

**The Chair:** I'll ask you to please limit your interventions to what is before us, which is CPC-8.

**Mr. Garnett Genuis:** Yes, exactly, Madam Chair.

I'm sorry if I wasn't making the link clear enough, but the point I was making was that a person may sign to express their advance consent towards a particular point in time in the future. There are adaptations that may happen in their experience, but there are also adaptations that may happen in terms of their care. The data shows that there's not a sufficient supply of palliative care to support most Canadians. If a person, then, at that earlier point in time is not receiving palliative care, not being engaged with family, perhaps, or whatever their circumstances are, and they make an advance request, and then, at that point in time in the future, they are receiving care that they weren't expecting to receive....

I think just the idea of the advance consent provision as it's currently constructed assumes that people have a perfect ability to predict what their experience will be in their future and that their experiences will be sort of linear—that they can make an advance request for, say, February 20 knowing that they will go through a certain process and that they will feel a certain way at that point in time and that they will feel a certain way between now and then. Evidently that is not the case.

It's clear that's not going to be true for most of us in most circumstances, but it is particularly not true for a person as they're approaching the end of their life. We've had cases in the media in which a person has felt that they wanted to live through Christmas because that was something that was important to them, but it's also very possible that a person having been through that might identify other milestones and say that they'd actually like to extend their deadline for this, that or the other reason, and that just speaks to the importance of having as much of a connection to contemporaneous consent as possible, recognizing all of the different changes in circumstances and the dynamic ways in which people's circumstances vary over time. This is why we need to have safeguards of some kind, and this is, I think, a reasonable safeguard.

I want to identify that the amendment doesn't make this section perfect. I still have concerns about the mechanics of the advance consent provision, for reasons that are evident in the points that I have discussed. I do, though, think this shifts the purpose of advance consent to filling in for a case where contemporaneous consent is not at all possible, but it still requires some mechanism of consultation in the moment.

Madam Chair, I may want to say more on this, but I'll pause for now and we'll go to others.

Thanks.

**The Chair:** Thank you, Mr. Genuis, for your eloquent words.

Madam Findlay, you're up next. Go ahead, ma'am.

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

● (2130)

**Hon. Rob Moore:** On a point of order, Madam Chair, I'm sorry to interrupt but I want to make a motion to adjourn the meeting. We've been meeting for three hours now. This was not a scheduled meeting. I know we have a regular scheduled meeting tomorrow from 11 until 1—

**The Chair:** Mr. Moore, you cannot move a motion on a point of order.

We'll go to Madam Findlay at this time, and then we'll come to you, Mr. Genuis.

Madam Findlay, go ahead.

**Hon. Kerry-Lynne Findlay:** In speaking to this amendment, what I wanted to talk about was the fact that this is allowing the ultimate in patient autonomy, to just confirm with the person and give them the opportunity to say whether they would like to proceed or not. I'm fairly confident that basically any legislation we might adopt is never going to safeguard in such a way as to eliminate all risk entirely that someone may end up accessing medically assisted death and not want it at the very end of their life.

That's because people do change their minds. We know that, but I would suggest that the risk is even greater if you are not looking for express or contemporaneous consent at the time. There's a lot of evidence to support that. The federal government released a first annual report on medical assistance in dying in Canada, and in that report it revealed that 7,336 written requests for MAID were reported in 2019. Of those, 263 were withdrawn by the patient predominantly because they changed their minds, and of those 263 withdrawals, 20% or over one-fifth took place immediately before the MAID procedure was performed.

Yes, this is a safeguard. Yes, this is an attempt to allow that ultimate autonomy at the time contemporaneously with the end of life. I know we talk about the Truchon decision. That's why we're here, but it isn't the only jurisprudence on these issues. In the Carter decision, the Supreme Court of Canada, which, I might point out, is a higher court than the Quebec Superior Court and one to which the government should have taken this matter, on three occasions stated that MAID should be performed only when a patient clearly consents to the termination of life. The inclusion of the word “clearly” indicates a need for positive confirmation without any doubt as to a person's wishes and “consents” means in the here and now. This is significant and must be heeded.

This is a wholesale change in approach with this legislation, and I think we need to tread a little more carefully than we are. In another Supreme Court of Canada case, R. v. Latimer, the Supreme Court emphasized that killing a person in order to end the suffering produced by a medically manageable physical or mental condition is not a proportionate response to the harm represented by the non-life-threatening suffering resulting from that condition.

I've heard from many members on the committee that some of the decisions they are making here and some of the ways the legislation is put forward are to relieve suffering. I have no doubt that we all wish to do that for our fellow Canadians. We have different ideas on how to approach that, but if, in truth we wish to reduce suffering and we wish to stand up for the dignity of the person and the autonomy of each and every person who may find themselves in this very difficult situation, it seems to me at a minimum we can, near the end of administration of these procedures, double-check and make sure that they are consenting clearly and that they are consenting in the present tense.

This could not be more necessary than in a situation where advance consent has been given, because in some issues of advance consent you're just imagining where you might be at a certain point in time. You imagine how you will feel about that. You imagine the reaction you're going to have.

● (2135)

My own dad had his leg removed later in life, and he handled it with a great deal of stoicism. However, my husband's grandfather, when he was told he'd have to lose his leg, said he'd rather die, and he died rather than have his leg removed. Different people have different tolerances. They find themselves in difficult situations, and they make their choices.

Please consider this amendment. Let's make sure the people who are making these decisions in advance contemporaneously still agree with their own decision made earlier.

The Canadian Society of Palliative Care Physicians should not be taken lightly. These are people, unlike any of us here, who deal with very vulnerable people at very difficult times in life-ending situations. They should really be considered in what they see as necessary for their patients.

With that, my colleague is going to sub in for me, because I must go at this point in time.

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

I have Mr. Cooper next on the speakers list.

**Mr. Michael Cooper:** Thank you very much, Madam Chair.

I speak in strong support of CPC amendment 8.

I think it's important for those who are watching these proceedings to read CPC amendment 8. It simply provides that "on the day specified in the written arrangement referred to in [the] subparagraph"—namely the advanced request—"the person is reminded by the medical practitioner or nurse practitioner that they entered into that arrangement and is provided with the opportunity to demonstrate refusal to have the substance administered or resistance to its administration".

I would be surprised if there could be any opposition to this subamendment, that someone who has made a request in advance would somehow not be provided an opportunity to withdraw that request.

Ms. Findlay, in her submissions, noted that in the Carter decision, the Supreme Court of Canada stated not once, not twice but on three occasions that to qualify for medical assistance in dying they must clearly consent. The defining paragraph of the Carter decision reads as follows:

> ...for a competent adult person who (1) clearly consents to the termination of life and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

It says, "clearly consents". What does "clearly consent" mean? It means that it must be affirmative. It must be positive.

I would submit that, constitutionally speaking, the provision for any form of advance consent is questionable. It falls well outside the scope of the Carter decision and this amendment simply provides for there to be at least some opportunity for the patient to demonstrate that they consent, to the degree that they have that ability.

This is all the more important, given that we speak about "reasonably foreseeable". This should not be confused with "end of life", at least as far as how reasonably foreseeable has been interpreted since Bill C-14 was passed.

It's true that in the province of Quebec reasonably foreseeable had tended to be interpreted in an end-of-life context, but that is not the case in other provinces. Part of the reason reasonably foreseeable had been interpreted in an end-of-life context in the province of Quebec was the language in Bill 52 passed by the National Assembly of Quebec prior to the passage of Bill C-14.

● (2140)

Given that reasonably foreseeable can and has been interpreted to sometimes mean that someone could have not weeks to live but months, and maybe even more than a year, illustrates the fact that now that we have legislation that provides that someone who could have months, or potentially a year or even longer than a year, in terms of at least how medical assistance in dying and how reasonably foreseeable has been interpreted in practice, it is absolutely essential that such a person at least be reminded that they made the request at a date they selected that, again, could have been a year away. I would make note of that fact.

I would also note that we heard a lot of evidence at this committee about how persons who request medical assistance in dying in some instances end up changing their minds. I would note in that regard that the federal government's own recently released first annual report on medical assistance in dying in Canada revealed that out of 7,336 written requests for MAID that were reported in 2019, 263 were withdrawn by the patient, predominantly because they changed their mind. Of these 263 requests, 20.2% took place immediately before the MAID procedure was to be performed.

Frankly, if that doesn't demonstrate the necessity of requiring that the patient be reminded of their request and have the full opportunity to withdraw their consent, then I don't know what does.

I would further add, just in terms of why this very limited and, I would submit, inadequate safeguard.... It is nonetheless an improvement on what this bill provides for, which is no safeguards, or completely inadequate safeguards, when it comes to this very problematic area of advance requests. I would cite the expert panel working group of the Council of Canadian Academies. I've cited before the 2018 expert panel working group of the Council of Canadian Academies, and I'll cite it here this evening. They had a report, a comprehensive report, identifying a number of concerns in allowing patients to make an advance request. The expert panel working group noted a lack of consensus. The expert panel working group noted that there was a lack of consensus, more particularly amongst experts, on "which situations, if any, are suitable for allowing (advance requests) for MAiD".

One of the things that were noted by the expert panel is that there is simply a lack of data to fully understand the impacts of how this practice works.

● (2145)

In that regard, I should note that, although there are many on this committee who to talk about medical assistance in dying as if it is just a leading practice that is widely accepted everywhere, Canada is one of the few jurisdictions in the world that has any form of medical assistance in dying. Indeed, just 2% of the population in the western world lives in a jurisdiction with any type of medical assistance in dying. Of the very few jurisdictions that offer medical assistance in dying, just four jurisdictions provide for advance requests.

We really are heading into uncharted territory. Even in the Netherlands it is controversial and has not been truly settled.

When you think about the Supreme Court of Canada decision, the Carter decision, which is the Supreme Court decision that guides us, it sets out the parameters under which we, as parliamentarians, must legislate. The Supreme Court of Canada recognized expressly in the decision that vulnerable persons could be put at risk as a result of medical assistance in dying, which is why the Supreme Court went out of its way on those three occasions in its decision to say that a patient who requests medical assistance in dying "clearly consents".

What's more, the Supreme Court determined that only with a carefully designed and monitored system of safeguards could there be assurance that those inherent risks would be sufficiently minimized. When the Supreme Court of Canada has all but said that advance requests fall outside the scope of what the Supreme Court envisioned in terms of laying out the parameters to which we, as a Parliament, responded by way of Bill C-14, surely simply putting it to someone, reminding them of their request, is the least we could be doing as we head down this very uncharted path, as we strip away safeguards that are, I believe, key, and that witnesses before our committee have said are key.

One of the things we heard was the tremendous amount of concern from the disabilities rights community, concern from all the way up to the UN special rapporteur.

We have a responsibility, a duty, to ensure that when we pass legislation in this area, we do absolutely everything necessary and appropriate to ensure that vulnerable persons are not unduly coerced, that there is true and meaningful consent, not only at the time the request is made but also at the time the request is carried out.

● (2150)

When we have a regime, however limited, for advance requests, that assurance of consent is simply not there. It's eviscerated. This would at least provide some level of protection, albeit very limited, to ensure that this patient clearly and truly is consenting to a procedure that is permanent and irreversible.

Looking specifically at the circumstances faced by vulnerable persons, the report of the Council of Canadian Academies noted that many Canadians face barriers to health care access. It wasn't just that panel. We heard that over and over again from the very limited time we had to hear from witnesses during the study of this radical piece of legislation that fundamentally changes the medical assistance in dying regime in Canada.

The report noted that, when it comes to barriers to access health care, particularly long-term care, when we speak of palliative care, persons who are marginalized and don't have community supports, family supports or social supports are disproportionately affected.

The expert panel working group of 2018 noted that:

> People with a prognosis that includes future loss of capacity anticipate vulnerability due to factors over which they do not have direct control, including societal stigma, caregiver stress, and availability of adequate home and residential care. These factors could influence deliberations about MAID and ARs for MAID.

It's important to read that excerpt from the expert panel in some context to this bill. As the expert panel notes, marginalized persons are at greater risk than others. They are making such a request because they don't see an alternative. They don't have care supports, so they see it as simply either continuing to endure suffering or making a request to end their lives, which should concern all of us because that is not a meaningful and true choice.

When you take those concerns affecting vulnerable persons and you put it in context with the rest of this bill, in circumstances where death is reasonably foreseeable, you have a bill that takes away any sort of reflection period, and a bill that takes away the requirement that there be two witnesses.

● (2155)

You have a bill that takes away the safeguard that there be two independent witnesses and provides that a witness could be someone who is a medical professional who is attending to the care of that patient. That creates issues around implicit coercion.

I want to be very clear that I don't think there are very many medical professionals—if there are any, it would be a very small minority—who would ever want to coerce a patient. That's why I say implicit coercion or unintended coercion due to a power imbalance. Then we received here before this committee some very disturbing testimony where there was in fact real coercion. Mr. Foley came here and gave very compelling evidence about what happened to him.

Taking all of that into account, with the removal of safeguards that were otherwise there to protect marginalized persons particularly, and then you open the door to making an advance request, at the very least—

[*Translation*]

**Mr. Luc Thériault:** I have a point of order, Madam Chair.

[*English*]

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

[*Translation*]

**Mr. Luc Thériault:** Can Mr. Cooper repeat his most recent comments? The sound quality was poor, and I did not understand what he said.

[*English*]

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

I actually do need to stop you now, Mr. Cooper, given that it's 10 o'clock. I've been advised that we don't have the resources to continue past 10 p.m. today.

Madam Clerk will be sending out a new notice of meeting tomorrow, amending the agenda to clause-by-clause so that we can continue what we haven't finished today.

The meeting stands adjourned.

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

## SPEAKER'S PERMISSION

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

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

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

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

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

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

## PERMISSION DU PRÉSIDENT

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

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

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

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

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