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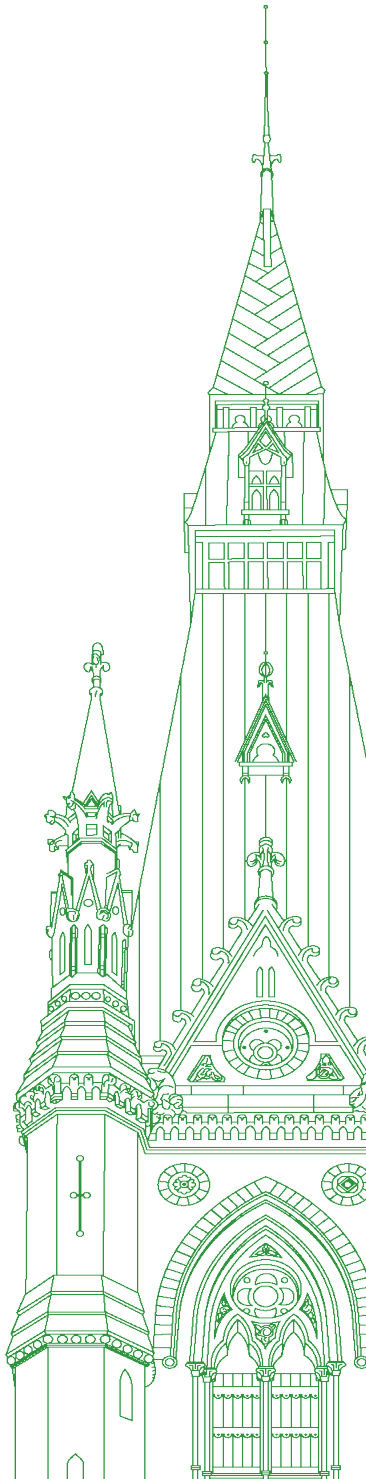

Chair: Ms. Iqra Khalid

Standing Committee on Justice and Human Rights

Tuesday, November 24, 2020

● (1105)

[*English*]

The Chair (Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.)): Welcome, everybody, to the 11th meeting and the clause-by-clause on Bill C-7.

Just as quick housekeeping for all members, when you are speaking, please speak slowly and clearly, and unmute yourself before you speak. To allow for interpretation, do speak slowly and clearly, and if you are not speaking, please keep your microphone on mute so that we are not disrupting other members.

We do have the department officials here with us today from the Department of Justice and the Department of Health. They are having some IT issues with their connectivity, which we're trying to resolve. I believe that as that's getting resolved we can continue.

We left off with amendment CPC-8 yesterday, That is where we will pick up again today. Just so members are aware, there was an amended notice of meeting that was sent out today with a clarified agenda of today's plan. Hopefully, we're okay with that.

I will start with resuming debate on CPC-8 at this time.

I see no members' hands raised, so I will call the question on CPC-8.

Mr. Clerk, can you please record the division?

(Amendment negatived: nays 7; yeas 5)

The Clerk of the Committee (Mr. Marc-Olivier Girard): Madam Chair, we have four yeas and seven nays.

The Chair: Thank you, Mr. Clerk.

CPC-8 is defeated. We're now moving on to CPC-9.

Mr. Moore, I do have concerns about the admissibility of CPC-9. As you are moving the amendment, can you please speak also to its admissibility as well as the reasons behind it? Thank you.

Go ahead, Mr. Moore.

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Madam Chair.

I would like to move CPC-9, which amends Bill C-7. It amends section 241 of the act, which Bill C-7 does touch on. I think this is fully within order. We heard testimony at committee, which I thought was very important testimony, from, for example, Roger Foley. For anyone who doesn't know, you can certainly find his story in the media. Various media outlets reported that Mr. Foley appeared to have been feeling some pressure to consider MAID. He, in fact, made recordings to this effect.

This is very important, because we're in a new stage now. Under Bill C-14, introduced by this government, an individual's death had to be reasonably foreseeable. That was never defined, and we chose not to define it as a committee, but reasonably foreseeable death is now no longer a requirement to provide for assisted death. In effect, someone does not have to be dying to be eligible for assisted dying.

I want to specifically mention, on this amendment, that the Canadian Society of Palliative Care Physicians spoke directly to this. They sent us a submission on Bill C-7, and their fourth recommendation is a recommendation on bringing up assisted dying:

> To safeguard against any possibility of subtle or overt pressure on patients, health care professionals should not initiate a discussion about MAiD or suggest the option of MAiD unless brought up by a patient. If a patient raises questions or requests MAiD, health professionals should have the ability to explore these issues, including their underlying suffering, and provide information or direct them to someone who can provide information. In other jurisdictions—

And I draw the committee's attention to this:

> —where assisted dying is legalized, such as in the recent legislation in Victoria, Australia, this risk of coercion due to the hierarchy and differential of expertise present in the physician-patient relationship is addressed directly in the law. Victorian Legislation states that a healthcare practitioner must not initiate a discussion or suggest Voluntary Assisted Dying (VAD) to a patient. We urge the Federal government to reduce harm of coercion to vulnerable patients by including this in the current revisions to the Canadian MAiD legislation.

We also received a submission from the persons with disabilities community. They make a number of recommendations. Their fourth recommendation states:

> Investigate the “worrisome claims about persons with disabilities in institutions being pressured to seek medical assistance in dying, and practitioners not formally reporting cases involving persons with disabilities”, which were identified in the UN Special Rapporteur’s report, and establish an independent body, whose membership must include representatives of the disability community, to investigate such cases moving forward.

The Conservative Party members listened to the testimony of those witnesses. I paid particular attention to the testimony of Roger Foley. That is why we're moving CPC-9, which deals directly with the issue of when medical assistance in dying should be brought up. It makes it crystal clear that this should be a patient-initiated discussion, not a physician-initiated discussion.

Thank you, Madam Chair.

● (1110)

The Chair: Thank you, Mr. Moore.

I will have to rule on CPC-9.

Bill C-7 amends the Criminal Code in relation to MAID. The amendment here, CPC-9, seeks to create a new Criminal Code infraction of coercing someone to request MAID, which would amount to counselling or aiding a person to commit suicide under section 241 of the Criminal Code.

Since Bill C-7 only provides for an easier access to MAID, the amendment goes beyond the scope of the bill. As the *House of Commons Procedure and Practice*, third edition, states at page 770:

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

Therefore, as stated before, I rule that this amendment is inadmissible, as it goes beyond the scope of this bill.

With that, I will now call the question on clause 1, as we have completed discussion and debate on all of the proposed amendments for clause 1.

Hon. Rob Moore: On a point of order, Madam Chair, while I respect your ruling, I do feel that CPC-9 is within the scope of this legislation. It deals directly with the provision of assisted dying; it deals with the very things this bill deals with, and it's an important safeguard.

For that reason, I would like to challenge the ruling of the chair on the admissibility of CPC-9.

The Chair: Thank you, Mr. Moore.

I will call the question: Shall the chair's ruling be sustained?

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

The Chair: My ruling is sustained.

Hon. Rob Moore: On a point of order, Madam Chair, before we move to the vote on CPC-9, on CPC-8 it was brought to my attention—I thought I heard it as well—that four people had voted in favour, when I think it was five who voted in favour of CPC-8. I just want to make sure the record is accurate.

The Clerk: Yes, you are right. I will correct the record.

The Chair: You are right, Mr. Moore, so the record will be corrected. Thank you for pointing that out.

Also, to clarify, Mr. Moore, we're not voting on CPC-9. We are now voting on clause 1.

Should clause 1 as amended carry?

(Clause 1 as amended agreed to: yeas 7; nays 4)

The Chair: Thank you, Mr. Clerk.

There were no amendments received for clause 2, so I will call the question on clause 2.

Mr. Clerk, could you please—

● (1115)

Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC): Point of order, Madam Chair.

The Chair: Yes, Madame Findlay.

Hon. Kerry-Lynne Findlay: I cannot hear what the chair is saying because I think Mr. Thériault's mute is not on. There, it's on now.

I didn't hear anything you just said. Sorry.

The Chair: That's absolutely fine, Madame Findlay. I'm happy to repeat myself.

Clause 1 as amended carries. Because there were no amendments submitted for clause 2, I'll call the question on clause 2.

(Clause 2 agreed to: yeas 7; nays 4)

(On clause 3)

The Chair: We're now moving on to the proposed amendments before us for clause 3.

We have PV-3. We'll just give a couple of seconds to Mr. Manly. I see that he's joined us now by video conference.

Mr. Manly, if you'd like to briefly speak to PV-3, please go ahead.

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

This amendment is another amendment that was adapted from a request by Inclusion Canada and supported by the Nanaimo Association for Community Living.

This is about collecting relevant data on the people who receive MAID. It will help with research so we have a better understanding of the circumstances of the people who have accessed MAID. This includes “information regarding the factors in the living conditions or life circumstances of a person who has requested medical assistance in dying that may be causing or increasing their suffering and any services or care that have been offered or made available to them, including palliative care, disability supports, assistive technology, income assistance, counselling services, communication supports and environmental accommodations.” Any regulations “must provide for the establishment of a data collection system designed to facilitate the analysis and interpretation of the information provided, particularly as it relates to the protection of vulnerable persons from being induced to end their lives.”

This is not about putting barriers in the way of MAID, but about understanding what factors are involved in people accessing MAID and ensuring that we have proper data collection for researchers and people interested in following up on why people have accessed MAID.

Thank you.

The Chair: Thank you, Mr. Manly.

Mr. Virani, I have you next. Go ahead, sir.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thank you very much, Madam Chair.

I thank Mr. Manly for his continued participation in these committee hearings and this clause-by-clause analysis.

I'm going to be opposing this amendment. There are no objections to the objective that's being pursued. Presenting a comprehensive picture of how medical assistance in dying is being delivered in Canada is important. It's important for monitoring to occur, to collect a range of information, but I believe that the amendments being proposed are actually not needed.

The first part of the amendment is not needed insofar as, if Bill C-7 is enacted, the regulations will be amended to align with the legislation, resulting in the collection and analysis of additional data. In developing those regulations, government is going to consult with a broad range of stakeholders, including the groups representing persons who may be vulnerable.

The second part of the amendment, in my respectful view, is also not necessary, as a federal monitoring system is already designed to analyze and report on available data regarding the protection of persons. I can give you an example of this, Madam Chair, for the benefit of the committee. The practitioner reports on how they determined that the request for medical assistance in dying was voluntary. This data is reported in an annual report.

On that basis, although I agree with the spirit of what the amendment is driving at, I do not think it is necessary and will be voting against it.

Thank you.

● (1120)

The Chair: Thank you, Mr. Virani.

I have Madame Findlay next on the list. Go ahead.

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

I would like to speak in support of this amendment, and I thank Mr. Manly for bringing it forward.

To me, it simply isn't the same. In practice, if one reflects—others may agree with me—it's not the same to have implementation in regulations as having it as a requirement in legislation. The whole point of this amendment, as I read it, is to make sure this is being done.

Right now we're going through this bill, but we already know that we will be going through a study, which should have been commenced in June and wasn't because of prorogation.

We're here dealing with a bill when, in many ways, we don't have sufficient data: data is inconsistent between provinces; certain data is coming from some provinces and no data from others. To my mind, that's partly because there is no requirement within the legislation that this data be collected. This would be very informative.

Here we're dealing with a bill that four years ago looked very different, when it was first passed. This is a revision of an earlier piece of legislation, and we're doing it without sufficient data, in my view.

This would be very helpful. If you look at the specifics of this amendment, you see that it speaks exactly to who is choosing this, why they may be choosing this, what resources were available to them and how this came about. It's exactly the sort of thing we should be looking at in a review now, and any review in the future.

That next review is going to be very important. There is already signalling by the Liberal government that, in that review, they intend to pursue an expansion from where we are now. It seems pretty basic to me that we should have the kind of data spoken to in this amendment, so as to have a fulsome discussion and really understand what we're talking about and what the real, lived experience is of those who have decided to access this, as well as those who decided to access it and then perhaps changed their mind at some point, because we've heard that this happens as well.

I'm in support of this amendment, and I thank Mr. Manly for bringing it forward.

The Chair: Thank you, Madame Findlay.

I have Mr. Lewis next on the list.

Go ahead, sir.

Mr. Chris Lewis (Essex, CPC): Thank you, Madam Chair. I appreciate the opportunity to speak.

I echo the comments of Ms. Findlay. I want to thank Mr. Manly for his foresight in bringing this forward. I think it's a fantastic amendment.

I would suggest, Madam Chair, that this should not be partisan in nature at all. I hope we can count on our colleagues across the floor, so to speak, to support this. I believe it's an amendment that is about human dignity and compassion. It is about ensuring that we can figure out where supports are lacking for disabled people and why they chose to end their lives prematurely, so that we can do everything in our power to help them live a dignified and full life, having received the support they require.

Madam Chair, this morning there was a press conference, and I jumped in to watch it. There was some.... I'm not going to call it “testimony”, because it didn't come to this committee specifically, but there were some very powerful speakers this morning from the disability community, for a lack of better words—I apologize. There was some fantastic testimony. There were so many things that really hit home for me.

I believe that this amendment—clause 3, I guess, if we were to agree to the amendment—really brings home what they're asking for and protects their rights specifically. Again, to Mr. Manly, I want to say thank you very much for bringing this amendment forward. I'll be voting in favour of it.

Thank you, Madam Chair.

● (1125)

The Chair: Thank you, Mr. Lewis, for that.

Mr. Moore, go ahead, sir.

Hon. Rob Moore: Thank you, Madam Chair.

I think some of the most important testimony we heard, in the very limited testimony time that was allotted at this committee.... We had only four days. One of those days was the ministers responsible, so really we had only three days of testimony. One of the most important takeaways from the testimony I heard, among the physicians, psychiatrists and MAID practitioners we heard from, came from those representing the persons with disability community.

Mr. Manly mentioned that this particular amendment is supported by Inclusion Canada. Inclusion Canada is an organization that represents the interest of persons living with disabilities, but the persons living with disabilities community—provincial organizations, local organizations and national organizations—are virtually universally opposed to Bill C-7. Realizing that the numbers are against them, they want to at least make the appeal for safeguards.

There was a report prepared by advisers to the vulnerable persons standard. These are doctors and physicians working in the Canadian health care system. It's titled “Failing People with Disabilities who Experience Systemic Suffering: Gaps in the Monitoring System for Medical Assistance in Dying”. I would certainly recommend it to all committee members.

They make the following case:

> The existing monitoring reporting system is the result of a federal-provincial negotiation. At the time it was first...developed in 2018, comprehensive proposals for a more robust system were put on the table by a broad cross-section of experts and disability organizations. However, these were rejected by the federal government....

They go on to list a number of cases where they've identified gaps in the monitoring and reporting system:

> Several cases of people with disabilities who requested and received MAiD raise very serious concerns that the eligibility criteria for access are not being adhered to in all cases. Nor is the process for obtaining informed consent and guarding against “external pressure,” as the legislation requires, always being managed in a way to fully explore alternative courses of action. In some cases, it appears that multiple pleas for access to needed supports have gone unaddressed, eventually leading the person to give up and apply for and accept MAiD in apparent defeat.

They mention the case of Archie Rolland, who was transferred against his will from a residence that provided highly specialized care to a geriatric long-term care facility in Lachine, Quebec: “Without staff adequately trained to communicate with him and provide essential care, he spent the remaining days of his life documenting the suffering that this caused and advocating for humane and capable care.”

How inspiring it is that some individuals who are dealing with a really low point in their life—we all saw the testimony of Roger Foley—who, in spite of the challenges they're facing, take the opportunity to try to advocate on behalf of people who may walk down the road that they're travelling. I find it inspiring that they do that.

One of the things being said by these groups, these persons with disabilities organizations and Inclusion Canada, is that there need to be more robust safeguards. They support this amendment.

With that, Madam Chair, I'd like to indicate my support as well for this amendment, PV-3.

● (1130)

The Chair: Thank you, Mr. Moore.

I don't see any more hands raised.

I'll call the question on PV-3.

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

The Chair: Thank you, Mr. Clerk.

We'll now move on to PV-4. Before I ask Mr. Manly to comment briefly on PV-4, I will refer members to an email received yesterday on some friendly amendments that were circulated.

Mr. Manly, could you also speak to those as we initiate debate on PV-4?

Go ahead, sir.

Mr. Paul Manly: Thank you, Madam Chair.

I appreciate the friendly amendment to this amendment, and I accept it. I am hoping people will support this amendment.

Given the clear objectives stated in the preamble related to protecting the human rights and inclusion of people with disabilities in respect of the charter and the UN Convention on the Rights of Persons With Disabilities, the minister responsible for the status of persons with disabilities and the office of disability issues should be mandated to share in the responsibility for monitoring and reporting to Parliament on the MAID system.

This motion simply states that, in performing his or her function or duties under clause 3, the Minister of Health should consult with the minister responsible for the status of persons with disabilities. Again, this is an amendment that was adapted from information sent to me by the Nanaimo Association for Community Living's executive director Graham Morry and information from Inclusion Canada and Inclusion BC.

I hope people will support this amendment.

Thank you.

The Chair: Thank you, Mr. Manly.

Mr. Virani, go ahead, sir.

Mr. Arif Virani: Thank you very much.

Again, I thank Mr. Manly for his contributions to this legislation and to this clause-by-clause discussion.

This is a very helpful idea that's being proposed. The nature of what I suggested as the friendly amendment that Mr. Manly is content with is circumscribing it a little bit. Part of my amendment removes the language that relates to the office of disability issues. I am advised that this office is not a legal entity and that the title and the name of that office may change over time, so entrenching it in a statute is not advisable.

Second is the language with respect to the nature of what the Minister of Health is required to do. In my view, the language should look something like “should consult” as opposed to “must, when appropriate, consult”. Over the past 48 hours, I've had some back-and-forth with different people about which language is most appropriate for an amendment that is amending the Criminal Code, so I'm going to ask the department to weigh in on whether “should consult” or “must, when appropriate, consult” is appropriate language for the purposes of coherence of the Criminal Code.

I'll go over to the department officials, who have been patient for many hours during the course of this clause-by-clause, and I thank them for their patience.

Ms. Joanne Klineberg (Acting General Counsel, Department of Justice): Thank you, Madam Chair.

We did take a look at and consider this language, and we had some discussions with the legislative drafters at the Department of Justice. We were unable to locate a provision in the federal statute book that said that a minister should do something. It's our collective view that the law directs what must be done or the law can permit what otherwise might not be permissible, but the law does not generally make a recommendation, because the law is there to be enforced when it's not followed, and it's not evident how you could enforce something that was just a recommendation about something that a minister should do.

The view of the Department of Justice is that it would be more appropriate and in keeping with the way ministerial consultations and other obligations on ministers are crafted that it be “must, when appropriate, consult”.

● (1135)

The Chair: Thank you very much for that, Ms. Klineberg.

We'll go to Mr. Maloney.

You have your hand raised, sir. Go ahead.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair.

Thank you for that clarification. In light of that, I would propose that we use the word “must” in the amended language that's contained in the November 24 email. If that requires a motion, Madam Chair, consider it so moved.

Hon. Kerry-Lynne Findlay: I have point of clarification, Madam Chair.

The Chair: Yes, Madame Findlay.

Hon. Kerry-Lynne Findlay: Is Mr. Maloney suggesting just the word “must” or “must, when appropriate”?

The Chair: Thanks for that, Madame Findlay. I was actually going to seek the same clarification from Mr. Maloney.

If you can just clarify the exact language, sir, go ahead.

Mr. James Maloney: Thank you.

I appreciate Ms. Findlay's pointing that out to me. I believe it should be “must, when appropriate”.

Hon. Kerry-Lynne Findlay: Thank you.

The Chair: Thanks, Mr. Maloney.

Mr. Virani, go ahead, sir.

Mr. Arif Virani: Just so I'm crystal clear, we've heard from the officials, and I support, I think, what Mr. Maloney is suggesting.

The language would be pursuant to the email sent out by the clerk on November 23, at 1:26 p.m., tracking that exact language, but instead of the words “should consult”, it would say “must, where appropriate, consult”. Other than that, the language is intact in that email.

Is that what we are voting on now?

Hon. Kerry-Lynne Findlay: Again, I just have a point of clarification. I want to make sure I know what I'm voting on. Is the word “consult” or “collaborate”?

Mr. Arif Virani: The language was “consult” in terms of—

Hon. Kerry-Lynne Findlay: It's “consult”. Okay. Thank you.

The Chair: Thank you, Mr. Virani and Madame Findlay.

I'll turn to our legislative clerk to clarify the exact language that's before us right now.

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

The question is more directed to the Department of Justice officials. If you will allow me, I'm going to read the English version first and then see what the French version might be.

The English version would read: “(6) In performing his or her functions or duties under subsection (3), the Minister of Health must, when appropriate, consult with the minister responsible for the status of persons with disabilities.”

Is that correct?

Ms. Joanne Klineberg: As I understand it, yes.

The Chair: Mr. Maloney, can you confirm?

Mr. James Maloney: Yes.

Thank you, Madam Chair.

The Chair: Thank you.

Go ahead, Mr. Clerk.

Mr. Philippe Méla: Now for the French version, if you have one, it would read:

[*Translation*]

(6) Dans l’exercice de ses responsabilités au titre du paragraphe (3)—

Mr. Luc Thériault (Montcalm, BQ): I can't understand.

Mr. Philippe Méla: Can you hear me, Mr. Thériault?

Mr. Luc Thériault: Now I can hear you.

Mr. Philippe Méla: Okay. I will continue reading.

The French version of the amendment reads as follows: (6) Dans l'exercice de ses responsabilités au titre du paragraphe (3), le ministre de la Santé collabore, si c'est indiqué, avec le ministre responsable de la condition des personnes handicapées.

Is that the version you have at the Department of Justice?

Ms. Joanne Klineberg: No, not exactly. Here's what I received from my colleagues in charge of drafting:

> Dans l'exercice de ses responsabilités au titre du paragraphe (3), le ministre de la Santé consulte, lorsque cela est indiqué, le ministre responsable de la condition des personnes handicapées.

● (1140)

Mr. Philippe Méla: Does it say "avec le ministre responsable"?

Ms. Joanne Klineberg: The word "avec" is not in the text.

Mr. Philippe Méla: Okay.

Ms. Joanne Klineberg: So it says "...le ministre de la Santé consulte, lorsque cela est indiqué, le ministre responsable de la condition des personnes handicapées."

Mr. Philippe Méla: Great.

Thank you very much.

[*English*]

The Chair: Thank you.

I have Mr. Virani next on the list.

Go ahead, sir.

Mr. Arif Virani: I'm perfectly happy with the language in French and in English, as we've just heard it.

I apologize, Chair. My raised hand was left over.

The Chair: Thank you, Mr. Virani.

Mr. Moore, go ahead, sir.

Hon. Rob Moore: Thank you, Madam Chair.

We just heard from the departmental lawyers about having certainty, because we're dealing with Criminal Code provisions, and about the concern around "should". Who determines what "should" is? Now we're saying "must", but then we're adding in a kind of wiggle room with "when appropriate", so the same people who would be determining "should" are now determining "when appropriate".

Who decides what "when appropriate" is? Who decides "should"? I think we're completely back at square one with this. I would propose—I don't know what we're concerned with here—to just say that the Minister "must consult" and to leave out the "when appropriate" because it leaves this open to uncertainty, and we can't have that, I believe, when we're dealing with something this serious and when we're dealing with provisions that are dealing with assisted dying. Who's going to make that determination? The same person who would be making the determination of whether they "should" consult is now going to be making the determination that they "must" consult but "when appropriate".

In my mind, there's no difference between those two things. To me, it would be a lot more certain and clear, and we'd be doing everyone a great service, to just say that the minister "must consult".

The Chair: Mr. Moore, procedurally, we need to first vote on the amendments that are before us before you can make further amendments. I will come back to you at a later time, once we've voted on these subamendments, if you would like to propose any further amendments.

I have Mr. Cooper next on my list and then Monsieur Thériault.

Go ahead, Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Madam Chair.

I was going to say what Mr. Moore already said. It would seem to me that the wording as presently drafted, as opposed to "should" or "must, where appropriate", provides much greater clarity and certainty.

With regard to the question of enforcement, I guess no matter how you look at it—whether the minister "must consult", whether the minister "should consult", whether the minister "must consult, when appropriate".... I don't know if, from an enforceability standpoint, any of those versions change that question. What this would do is very simply provide a positive duty on the part of the minister to consult. I think that duty is essential, having regard for the very, very serious concerns that have been raised by the disability rights community.

On that basis, I would support the existing language.

The Chair: Just to—

Hon. Kerry-Lynne Findlay: I have a point of clarification.

● (1145)

The Chair: Sorry, Madame Findlay, I'm just going to clarify something that Mr. Cooper said. The existing language does say "must, when appropriate".

Mr. Michael Cooper: Sorry, just to clarify, the language, before it was changed, simply provided.... The original amendment provided for "must". That's the original amendment, so that's the language that I support.

The Chair: Thank you, Mr. Cooper.

Madame Findlay, you have a point of clarification.

Hon. Kerry-Lynne Findlay: Yes, please. I would like to hear from the departmental officials what the difference is in terms of enforcement or interpretation between "must" and "must, when appropriate" because I don't think I've seen language like "when appropriate" in the Criminal Code. I certainly understand the word "must". Could we just hear from departmental officials on that, please?

The Chair: Go ahead, Ms. Klineberg.

Ms. Joanne Klineberg: Thank you, Madam Chair.

I don't think this is an issue that is specific to the Criminal Code, as opposed to other statutes. The Criminal Code does not contain very many regulation-making powers for ministers that would impose duties to consult. I think these issues are just more general legislative issues. I think the difference between “must consult” and “must, when appropriate, consult” is simply that the latter version, with the addition of the words “when appropriate”, means “in relation to the aspects of whatever the minister is doing, where that consultation would be necessary”.

The MAID monitoring regulations, for instance, will contain aspects that perhaps are completely unrelated to the issues that the minister responsible for the status of persons with disabilities would be interested in. They might relate to, for instance, developing—and this is just a hypothetical—regulatory obligations for the practitioners to provide information about their area of specialty in which they practice. That may not be something where input from the minister responsible for the status of persons with disabilities would be pertinent.

I think that all “when appropriate” does is to say that when there is an aspect of the regulations that the Minister of Health is working on that is directly or indirectly related to the responsibilities of the other minister, that is when an obligation to consult would be required.

The Chair: Thank you.

Does that clarify things for you, Madame Findlay?

Hon. Kerry-Lynne Findlay: It does.

The Chair: Thank you.

Hon. Kerry-Lynne Findlay: I have another point of clarification.

I thought it was possible to subamend an amendment. It seems rather too late for a subamendment if we've already voted on an amendment. If Mr. Moore is suggesting a subamendment, I thought that would be an appropriate thing to do from the floor.

The Clerk: Yes, Madame Findlay.

We have the amendment from Mr. Virani that was sent on November 23. So that's the main—

Hon. Kerry-Lynne Findlay: Right.

Then Mr. Moore was just now suggesting a subamendment to take out the words “when appropriate” from that suggested amendment.

The Clerk: Right, but there was—

Hon. Kerry-Lynne Findlay: Is that not possible?

The Clerk: It is not, because there is another subamendment already on the floor, to change the wording from “should” to “must, when appropriate”. This one has to be dealt with first. After that, if this one is defeated, Mr. Moore could move his to simply put “must” instead of what's there at the moment.

The Chair: Thank you.

We'll go to Mr. Thériault now.

Go ahead, sir.

[*Translation*]

Mr. Luc Thériault: My question is for the legal experts from the Department of Justice.

In the Criminal Code, is it common to manage relations between departments, and as in this case, to include provisions requiring a minister to consult another minister?

We are talking about the federal level, but do the territories and provinces, as well as Quebec, also have this obligation when it comes to ministers or persons with equivalent responsibilities?

How is this section appropriate in a criminal code?

● (1150)

Ms. Joanne Klineberg: Thank you for your question.

As I mentioned a few minutes ago, I don't think it's about identifying the legislation in which this type of obligation is included. In the Criminal Code, obligations for ministers to create regulations are rare, but there are a few instances.

From what I understand from my colleagues in drafting, there are obligations requiring ministers to create regulations or to consult with other ministers. That's quite frequent. They found several examples related to the obligation of ministers to consult with others. To my knowledge, there are no others in the Criminal Code, but I do not think that compromises the validity of such an obligation, whether it is in the Criminal Code or in any other piece of legislation.

I don't see why this would affect provincial ministers. For that to be the case, the words would need to be more explicit.

Mr. Luc Thériault: Would ministers who might not consult even though the Criminal Code provides for such a collaborative relationship find themselves in a particularly uncomfortable situation? What would happen?

Ms. Joanne Klineberg: That's a good question.

We sometimes wonder the same thing about the obligations of Parliament to have a parliamentary review. What if that doesn't happen?

This particular amendment is not tied to an offence in the Criminal Code. The obligation of the Minister of Health to create the monitoring system regulations is not tied to an offence in the Criminal Code either.

It's an interesting question, but I'm not sure whether my answer is very clear at this point. We could do some research and get back to you on that.

Mr. Luc Thériault: Thank you for your answer, Ms. Klineberg.

These are the questions I had, because my colleagues' arguments and justifications about the need to include this type of provision in the Criminal Code did not answer my questions. I saw no additional benefits, but I wondered whether it would not bring additional constraints.

Thank you for shedding some light nonetheless.

[*English*]

The Chair: Thank you, Mr. Thériault.

I see no further discussion. I'll call the vote on the subamendment as read into the record by the legislative clerk and as proposed by Mr. Maloney.

Mr. Clerk, please record the vote.

[*Translation*]

Mr. Luc Thériault: Madam Chair, since we do not have the text and we are proceeding right away, can we hear it again, please?

[*English*]

The Chair: Absolutely.

Please go ahead, sir.

● (1155)

The Clerk: I will start with the English version: "(6) In performing his or her functions or duties under subsection (3), the Minister of Health must, when appropriate, consult with the minister responsible for the status of persons with disabilities."

The Chair: Thank you very much.

Go ahead, Mr. Clerk.

(Subamendment agreed to: yeas 9; nays 2 [*See Minutes of Proceedings*])

The Chair: Mr. Moore, I see your hand raised on PV-4 as amended.

Go ahead, sir.

Hon. Rob Moore: Thank you, Madam Chair. Thank you to the departmental officials as well as to the clerk for the advice in this regard.

Now that this particular subamendment has been adopted, I would like to move an amendment that deletes the words "when appropriate". For all the reasons that we heard—I won't ask them to repeat it, but Justice officials said we would not normally see the word "should" in the Criminal Code—I do not believe we should see a "when appropriate". We don't tell someone to obey the speed limit "when appropriate" or not to rob a bank "when appropriate".

In the Criminal Code or regulatory principles, we would not inject certainty into the clauses we're dealing with if we were to include the words "when appropriate", because, as I mentioned before, the person who would be determining whether they "should" or "shouldn't" do something would be the same individual or group of individuals determining whether something is inappropriate or appropriate.

I don't know whether you call it a sub-subamendment, but my amendment to this amendment is to remove the words "when appropriate".

Thank you, Madam Chair.

The Chair: Thank you, Mr. Moore.

It would still be called a subamendment to the amended PV-4.

Madame Findlay, I see that your hand is raised. Go ahead.

Hon. Kerry-Lynne Findlay: Is this the time to speak to the subamendment?

The Chair: Yes, absolutely. Go ahead.

Hon. Kerry-Lynne Findlay: Basically, as I understand the wording now, in English it would be "In performing his or her functions or duties under this section, the Minister of Health must, when appropriate, consult with the minister responsible for the status of persons with disabilities."

Taking out "when appropriate" leaves it as "must". It is in the carrying out of their duties, so we are not fettering their discretion, really. We're not constricting the exercise of their ministerial duties. We're saying that in the course of those duties, as they perform those duties, they must consult with those who have the responsibility of thinking about, determining policy about and handling the issues surrounding persons with disabilities.

We've heard from this community loud and clear in this committee. There are many more who wanted to speak. I wear a pin today that is in commemoration of the fact that this is indigenous persons with disabilities month—a group we didn't really hear from, although we heard from persons with disabilities organizations on a grander scale.

I really think this is something that should be done; it seems very appropriate. I think we're all, in terms of the spirit of this, on the same page. It's cleaner; it's neater and more succinct—something Mr. Virani is in favour of generally—and I think these are two ministers who should be consulting on these issues.

Taking out "when appropriate" makes a lot of sense, and I would urge others to support this.

Thank you.

● (1200)

The Chair: Thank you, Madame Findlay.

Just before I call the question, I'll turn to the legislative clerk to read the language of the subamendment.

The Clerk: Thank you, Madam Chair.

The amendment, with the new subamendment, would read as follows: "(6) In performing his or her functions or duties under subsection (3), the Minister of Health must consult with the minister responsible for the status of persons with disabilities."

The Chair: Thank you.

The question now is on the subamendment.

Mr. Clerk, please record the vote.

(Subamendment negatived: nays 6; yeas 5)

(Amendment as amended agreed to: yeas 10; nays 1 [*See Minutes of Proceedings*])

● (1205)

The Chair: Thank you, Mr. Clerk.

Shall clause 3 as amended carry?

(Clause 3 as amended agreed to: yeas 7; nays 4)

The Chair: Thank you, Mr. Clerk.

Moving on with clause-by-clause, I will remind members that in our first meeting of clause-by-clause, I had made a ruling on amendment CPC-1, which was sustained. At that time, I had advised members that CPC-10, being consequential to CPC-1, was also inadmissible. I'm just letting members know that this ruling still stands, because we had voted and that ruling was sustained.

I call the question now on clause 4.

Hon. Rob Moore: On a point of order, Madam Chair, amendment CPC-10 deals with conscience rights for physicians. That's something that was brought up by a number of doctors from a number of specialties, including palliative care. They've specifically recommended that we provide meaningful conscience protection for health care professionals with respect to MAID.

While I respect your ruling on CPC-10, I would like to challenge that ruling, because I believe CPC-10 is admissible.

The Chair: Thank you, Mr. Moore.

We've already had that challenge to the ruling I made at the first meeting on clause-by-clause. You can't challenge what was already voted on and sustained by committee members. That would be out of order.

We'll go back to clause 4, and I'll call the question on clause 4.

(Clause 4 agreed to: yeas 7; nays 4)

The Chair: Now we're going on to what is a proposed new clause 5 by Monsieur Thériault in the form of amendment BQ-4.

Go ahead, Monsieur Thériault, if you want to move it.

[*Translation*]

Mr. Luc Thériault: Madam Chair, this amendment was intended to be preventive, because, when the minister appeared before the committee, he told us that he absolutely wanted the act to be reviewed quickly so that all the sensitive aspects ignored in Bill C-7 could be studied. One of those aspects was that Bill C-7 excluded the whole issue of mental illness.

Therefore, the purpose of my amendment is to look not only at mental illness, but also at neurodegenerative diseases, which had also been dropped from the bill. When we studied these diseases, we received witnesses who were even willing to move the discussion further even more. They said that they agreed with passing Bill C-7 to amend the Criminal Code, meaning Bill C-14, but that we should then get to work quickly to deal with those issues.

There was also the whole issue of mature minors. It is the contention of the Canadian Bar Association and of Mr. Ménard that the Carter decision, the Baudouin decision, and the court go much further: they imply that mature minors, mentally ill persons and persons suffering from neurodegenerative diseases should have access to medical assistance in dying.

I was asking myself the following question, which is perhaps for the department's legal experts.

Since Bill C-7 does not provide for a review of the act, does this automatically fall under section 10 of Bill C-14, which provides for a review of the act every five years?

If the act is amended, it becomes a new act. Does the new act mean a five-year delay before the review is undertaken?

In that sense, my amendment seeks to prevent us from studying and discussing the sensitive issues ignored in Bill C-7 in four or five years, when we have reached an agreement and the minister has come to testify. This had to be done quickly, since Bill C-14 already contained a provision that should have prompted us to review the act last summer.

I would like someone to answer my questions. That is why I introduced this section. I was told that I could not table a section like that because it would be too early and we could not review Bill C-7.

Bill C-7 is not legislation in itself. It is one part of a piece of legislation called the Criminal Code. Right now, court judgments are telling legislators that they are ignoring a major part of the problem and the people involved. If we don't want to end up with legislation that will be challenged in the Supreme Court once again, or slapped with a court order, we should already be at work, discussing it ourselves, and taking responsibility.

If people with neurodegenerative diseases heard today that the act would be reviewed in four or five years because that is what section 10 says, they would certainly challenge it in the Supreme Court. However, depending on how the legal community interprets section 10, my amendment would allow the act to be reviewed and considered now, after Bill C-7 is passed.

Keep in mind that I had asked the minister if he agreed.

● (1210)

The minister told me that he did and that it was a matter of agreement among the House leaders. I thought that was sort of weak as an answer or an intention. That is why I am introducing this amendment today. I did not have the answers to the questions I am asking you and I did not want to take any chances.

Who will give me answers? I want answers. I don't want to just be told it's out of order.

● (1215)

[*English*]

The Chair: Thank you, Mr. Thériault.

Mr. Maloney is next on the speaking list.

Mr. James Maloney: Was Mr. Thériault looking to me to answer his question?

[*Translation*]

Mr. Luc Thériault: Madam Chair, I asked the department's legal experts a question. I want to get answers before we continue the debate. It's critically important.

If they tell me that there's nothing to worry about and that Bill C-7 will not change what is already set out in section 10 of Bill C-14, and that the act can be amended after the bill passes, as early as next month or when Parliament returns in January, I do not see any problem. However, if not, I do see a problem, hence the relevance of my amendment.

I would like a legal clarification of what I have just stated.

[*English*]

The Chair: Would anybody from the department like to answer Mr. Thériault's questions?

[*Translation*]

Ms. Joanne Klineberg: Thank you, Madam Chair.

As we at the Department of Justice understand it, the requirement in the previous Bill C-14 to conduct a parliamentary review early in the fifth year after the act comes into force still applies. The fact that we have a new bill amending sections of the Criminal Code does not change the requirement in the previous Bill C-14.

As we understand it, a single parliamentary review is required, not a review every five years. We see no reason to believe that this requirement would be precluded or affected by Bill C-7.

Mr. Luc Thériault: I was told that, if I were to propose this amendment to Bill C-7, it would only require a review of this bill, not of the entire act. Is that correct?

Ms. Joanne Klineberg: That's an interesting question.

I think the scope of the requirement depends on the words you choose as parliamentarians. If the requirement written into the new bill is to review the bill and other related matters, I believe it will be allowed.

For example, one committee had requested that the state of palliative care be studied during the parliamentary review, even though it was not expressly set out in Bill C-14. As parliamentarians, you can make it a requirement for you to review whatever you want.

● (1220)

[*English*]

The Chair: Does that answer your questions, Mr. Thériault?

[*Translation*]

Mr. Luc Thériault: I understood that mental health would not necessarily be excluded from the review under section 10 of Bill C-14.

[*English*]

The Chair: Mr. Maloney, go ahead.

Mr. James Maloney: Thank you, Madam Chair, and thank you, Mr. Thériault, for introducing this proposed amendment.

I understand where you're coming from, but my concerns are on a couple of different levels. But for the pandemic, there would have been a review undertaken already with respect to Bill C-14, as was required by the legislation. It's unfortunate that it wasn't able to go ahead in a timely manner, but we all know the reasons why, and I don't think anybody really takes issue with it too strenuously, at least I hope so. To the extent that this amendment is in response to that delay, I think it's unnecessary.

On another level, I think it may be a bit overzealous in the sense that if we were to apply a one year-review criterion to every piece of legislation that this committee or other committees pass, that's all we would spend our time doing—reviewing legislation that has been passed within the last 12 to 18 months, which speaks for itself as being unnecessary.

My understanding is that there's going to be a review taking place—likely as soon as early in the new year. By necessity—and I think we just heard this confirmed—that will include all aspects of this legislation, including many of the issues, if not all of the issues, that we've been talking about during the course of the last eight meetings. In addition to that, we'll be discussing and reviewing other aspects of the legislation as well, which will necessitate and involve further widespread consultation.

All of this is to say that, although I appreciate your amendment and I empathize with your motivation, in the circumstances we're currently in it's unnecessary, on the one hand, and on the other hand, it may be placing too heavy an obligation on this committee.

Thank you, Madam Chair.

The Chair: Thank you, Mr. Maloney.

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

Hon. Rob Moore: Thank you, Madam Chair.

Thank you, Mr. Thériault, for moving this amendment.

I think it's an interesting amendment. I think it's a timely amendment. It just raises a number of concerns that I have, and I do have some questions about the amendment.

Mr. Maloney just referenced our committee's having to deal with this, but my reading of this is that the amendment as proposed by Mr. Thériault says that “their application must be undertaken by any committee of the Senate, the House of Commons or both Houses of Parliament that may be designated or established for that purpose.” It says “designated or established”, similar language to what's used in Bill C-14. We, the justice committee, would not necessarily be the committee tasked with this review.

The reason why it's important, I think, to consider this amendment is that we're moving at lightning speed on a brand-new-to-Canada area of law. Up until Bill C-14, providing assisted dying was strictly prohibited within our Criminal Code. This is what's being amended and what was amended with Bill C-14. Bill C-14 was a response to court decisions, and Bill C-14, which was passed by the previous Liberal government, involved a mandatory five-year review. It used similar language to this amendment. It was not prescriptive as to whether it would be a review conducted by a joint committee of both Houses, a specified committee within the House of Commons, or a new committee put together for the purpose of the review.

As we know, that review, which was to take place this past summer, did not take place. Could a review have taken place in some capacity? Well, we were able to do a lot of things this summer. We all recognize the challenges faced with COVID. However, here's why it's important. The minister has signalled a number of topics for the review: minors, persons whose underlying issue is mental health only and not some other disability or injury, advance directives. You'd think that a review like that would inform new legislation. Unfortunately, with the decision in Quebec.... That was not appealed to the Quebec Court of Appeal, and it was not appealed to the Supreme Court of Canada.

The position I would take is that, when you have new legislation, part of the role.... We have a joint.... In Canada, we have a Minister of Justice and an Attorney General. The Minister of Justice is responsible for justice legislation, like what we have before us today, but the Attorney General has a distinct responsibility as well. The Attorney General's job, among other things, is to defend, within the court system, Government of Canada legislation. The Attorney General did not do that. In fact, at the first opportunity....

So, you have a brand new, shiny bill—created with a majority Liberal government—called Bill C-14. It provides for medical assistance in dying. It has a number of safeguards. It includes a requirement that one's death must be reasonably foreseeable. Well, the court decision struck down that aspect and said that, no, a person's death does not have to be reasonably foreseeable. Instead of seeking clarification, instead of defending the legislation....

● (1225)

There's a reason why, at the limited committee meetings we had, we heard overwhelmingly from the persons with disabilities community about their concerns with Bill C-7. Many of those people we heard from, including individuals who appeared before this committee, would not have been eligible for assisted dying under Bill C-14, but now would be eligible under Bill C-7. They're concerned with the message that sends to their community.

This is why this provision is important. The government did not initiate. The government still hasn't initiated.

Provincial legislatures are up and running. The House of Commons is up and running; we're having this committee here today. People are used to meeting virtually. To my understanding, all of our witnesses at this committee on this bill and future bills are going to be, by and large, appearing remotely. We heard from physicians, from people in the disability community, from MAID assessors, from MAID providers, from psychiatrists and from a broad spectrum of Canadians. Other parliamentary committees, even today, are doing the same type of thing that we are doing.

This legislative responsibility that we had in Bill C-14 to have a committee look at the state of assisted dying in Canada five years after the passage of Bill C-14 was supposed to have been completed already. It hasn't even started, and now we hear that maybe it will start in January.

Some of the things that were supposed to be studied in this review are things that we're dealing with on Bill C-7 right now. The Truchon decision did not deal with advance directives, but this legislation has advance directives in it. The Truchon decision did not say that the 10-day reflection period was unconstitutional. It didn't say that having two witnesses, two doctors, including a doctor who specializes in the ailment that the person has.... It didn't raise any of those things. It didn't say there was anything wrong with them, yet those changes are included in Bill C-7.

We could debate whether we agree or don't agree with those changes, but what is not subject to debate is that those changes were necessary to respond to the Quebec court decision. They simply were not. They were added into this legislation.

Parliament, in its wisdom, in passing Bill C-14 said that after five years we're going to study this. Implicit in that is that the study would inform future legislation. Instead, five years later we have new legislation that raises tremendous concerns across Canada.

I certainly went into this study with a open mind to look into Bill C-7. We heard from witnesses. The more I hear, the more concerns I have. We have palliative care doctors saying that there is no protection for conscience rights and that there is no protection for people who have had MAID suggested to them, maybe repeatedly, when it's not something they are considering. The disability community said that this makes them second-class citizens and that this is a “nightmare” scenario. Those are their words, not mine. Those are the words we heard from enabling accessibility and from other groups like Canadians with Disabilities. We heard from Roger Foley, a person who took the time to appear before this committee to make the case. It was a very selfless action on his part because he is doing this for people who are going to be in his situation in the future.

We have to listen to those voices.

The five-year thing didn't work, because here we are. Yes, we know there were issues this summer, but here we are and November is almost over. We're coming into December. There is no reason this study couldn't have started. The reason it hasn't started is that maybe they don't want to hear what it has to say before they pass more legislation, like Bill C-7.

● (1230)

In a vacuum, where we did not have the benefit of this study, we have Bill C-7. How many days did we spend studying Bill C-7? Four. This relates directly to the amendment being proposed by Mr. Thériault. We had four days to study something that profoundly changes the law in our country—completely different. Should Bill C-7 become law, the law when it comes to assisted dying in Canada will be profoundly different than it is today. That's without any debate. There's no argument that what we're doing right now is going to have a profound impact.

As a parliamentarian, I did not participate in the debate or the votes on Bill C-14. I would have liked, though, to have the benefit of that parliamentary study, whether it was the justice committee, a hybrid committee, or a committee of the Senate and the House. I would have liked to have the benefit of a robust study, hearing from a variety of witnesses who could have informed us in our deliberations now.

Without the benefit of that, we have this committee. In this committee, we took four days. The first day was taken up by the ministers, who, of course, enthusiastically supported their legislation. Of course they do. This isn't a partisan thing, because when we were in government, we would enthusiastically support our bills.

I haven't seen a sincere effort to reach across the aisle and say that we recognize the diversity of our country, that we recognize there are 338 elected parliamentarians who are all here to do a job, that we recognize that we are all equals around the table and that no one party, mine included, has a lock on good ideas. Every party represented here today, if we're honest with ourselves, may bring things of value to the table.

We have moved, and we have talked about 10 Conservative amendments. None of our amendments would have been earth-shattering. Some of them, in fact, just put back safeguards that the Liberal government itself saw fit to put into Bill C-14. I want to be abundantly clear that without even the benefit of this parliamentary review that's in Bill C-14, the government, the same government that passed Bill C-14, the Liberal government, is peeling away the safeguards that it included in Bill C-14.

Some people might say they don't work. How do you arrive at that conclusion without the benefit of the parliamentary study that you saw fit? People like to cite different groups. We can all do that. When we all do that, I think it should inform our decision-making. It doesn't mean any one group is 100% right, and I don't believe any one group that we heard in our limited testimony is 100% wrong.

Frankly, when I see the receptiveness of the government to some of the very fair, well-thought-out and appropriate amendments the Conservatives raised.... I hope it's not leading to the conclusion that the Liberals feel they know it all and they have a lock on good ideas. I'm willing to agree with some of the amendments from other parties, and I happen to agree with this one.

I agree with BQ-4, because I hope we're not banging our heads against the wall. If the government ignored a five-year study, well, maybe it will ignore a one-year study. They ignored the one that was supposed to take place after five years; maybe they'll ignore this one, which is supposed to take place after 12 months.

I hope this isn't the case. I hope we can send the message that if there is any area of law that deserves safeguards, that deserves a deliberate look at the implications in the application of the law, it's assisted dying. There's no question about that. It's literally life or death. It may not be the group that's here today. It may be some future parliamentarians, but I want future parliamentarians to be informed by a robust study before they make new decisions and amendments.

● (1235)

Frankly, those of us on the justice committee right now did not have the benefit of that type of study. I refuse to accept that the four days that we spent on witness testimony—the first day being the ministers—was a robust study of this bill. It wasn't. This bill and the people who appeared before it.... How about the people who didn't get to appear? How about the Canadians who didn't get to appear? They didn't have their say. I know some of them have been sending in briefs that help to inform us as parliamentarians.

We can't have the thinking that one group knows best or that one party knows best. We're not going to properly study things before making legislation. That cuts across party lines. It doesn't benefit any of us. It does a disservice to Canadians if we think we can do up a first draft of legislation, put a stamp on it and say it's good to go and it doesn't really matter what people have to say about it. Frankly, that's what we saw this time. I think four days was clearly not enough. We've been saying that all along.

Now we're studying it clause by clause, but we're studying it clause by clause with the limited benefit of the limited testimony we've heard. The testimony we have heard leads me to the conclusion that the safeguards that were in Bill C-14 should have stayed in Bill C-7. They should not have been stripped out. Further expansion of MAID in Canada should have followed only after a robust parliamentary study, as was contemplated in Bill C-14. We, as parliamentarians, have an obligation to put in those safeguards, which include review of the legislation, so that we can protect the people.

I believe everyone around the table wants to protect vulnerable Canadians. We may all have a different approach to that, but there's absolutely no harm in including a parliamentary review.

I support this amendment. I believe it sends the right message, and I think it will also help inform future parliamentarians on future legislation dealing with MAID. We, this group, this current justice committee here in November 2020, did not have the benefit of this type of review. I hope future parliamentarians do have the benefit of this type of review. That is why I am pleased to support BQ-4.

Thank you, Madam Chair.

● (1240)

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

Mr. Garrison, I have you next.

Go ahead, sir.

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

During the discussion of amendments I have limited my interventions because I think it's important that we deal with Bill C-7 so that the safeguards that Bill C-7 provides in the second track would be in place in the province of Quebec if the court decision does go ahead. I also think it's important because in my riding I know that there's much unnecessary suffering caused by the 10-day waiting period and by the inability to waive final consent.

That said, I want to speak to this amendment, because I share the concern that we need to do the broader study of medical assistance in dying, and not just Bill C-7. That's why I put a motion on the Order Paper earlier this fall calling for the creation of a special committee and expanding the mandate of that committee to include the question of whether safeguards for vulnerable people are in fact adequate in medical assistance in dying.

It was my hope that the House leaders could reach agreement to establish such a committee, but they have not done so. I hope that in our next session of committee business we can consider whether this committee can go ahead and begin that review and establish a time frame for that review.

The unfortunate consequence—unintended, surely—of Mr. Thériault's amendment is that it would provide the implication that we ought to delay this general review for another year, and I think that would be quite unfortunate, or that we have two simultaneous reviews going on.

For those reasons, as much as I want this general review to start, I am not in favour of Mr. Thériault's amendment.

The Chair: Thank you, Mr. Garrison.

Mr. Thériault, I believe your hand is raised. Go ahead if you would like to respond to the comments made.

[*Translation*]

Mr. Luc Thériault: Yes, absolutely.

We did hold four meetings, yes, because the court granted us two extensions. We got them because, after the election, we did not get moving quickly enough. In an effort to respond quickly to the court order, the government decided to amend the MAID provisions by proposing two safeguards based on whether or not a person's natural death is reasonably foreseeable. That's the question I would like to put to a legal expert right now. Mr. Garrison just mentioned that, if we adopt this amendment, we would be obligated to conduct two reviews, perhaps simultaneously. I do not believe that. It just means that Mr. Garrison wants a special committee, and I want one too. We want a special committee and we are reiterating through the motion that "within 12 months after the day on which this Act receives royal assent, a comprehensive review of the provisions of the *Criminal Code* relating to medical assistance in dying..."—which means January, February, and March, because the bill will receive royal assent in December.

Mr. Garrison was talking about MAID, but Bill C-14 deals with provisions around MAID. So I do not see dual intent, except that the intent of parliamentarians is reiterated here, that it be done within the next year, no later than the next year, and that it last no longer than a year so that we can agree on what we need to add or not add to the MAID provisions.

BillC-7 therefore leaves out several factors that many people would like us to discuss. The decision was made to pass Bill C-7 quickly. However, the first thing I said at the beginning of this study was that, while we were debating, we had to always keep in mind that people were still suffering. During this pandemic, those individuals, the patients not infected with COVID-19, are bearing the brunt of all the disruption in the health care system.

Our deadline was extended twice, and we were required to act on a court order. I feel we need to reiterate to the government—especially since Mr. Garrison said the leaders would not agree on this—that we want to do this kind of study, as parliamentarians and as a committee. That's what the motion says. It doesn't contradict what is set out in section 10 of the MAID, although it is perhaps a little more specific. Nor is it exclusive. So I feel it's important to reiterate that and send a message to the executive branch: we must stop dragging our feet.

Because we don't anticipate court judgments and legal challenges ahead of time, and we don't do our job as lawmakers, court orders come back to haunt us as parliamentarians.

I feel that people expect us to be able to say that we're taking action on Bill C-7. In my view, a third extension would have been improper, considering those who are suffering. If we did not express our views on this issue here, we would again be leaving a note of uncertainty in the message we're sending to the executive branch, which, in my opinion, has a great deal of influence. I feel it's important that we're able to adopt this motion, and I'm even more convinced that it does not preclude the requirement in section 10, but that it clarifies, reiterates and completes it, in that it adds perspective and a time frame.

● (1245)

At the same time, it sends a message to all those waiting to challenge this in court. Remember what we were told: some will argue that we've gone too far and some will argue that we haven't gone far enough.

However, after the four days of parliamentary work we have just completed, we will be able to immediately send the message that Bill C-7 is a balanced response to a court order, and we, as parliamentarians, are thinking more deeply and at greater length about all the sensitive issues. It seems to me that issues as thorny as those we have been working on for a good number of hours must be handled in that way.

I rest my case.

[*English*]

The Chair: Thank you very much, Monsieur Thériault.

I have Mr. Cooper next on the list, and then Madame Findlay.

Go ahead, Mr. Cooper.

Mr. Michael Cooper: Thank you, Madam Chair.

I too, would like to speak in support of the BQ amendment. Let me first say that I agree with Mr. Thériault to the degree that his amendment is not duplicative, that it is complementary, and that it reinforces on the government something that the government failed to do when Bill C-14 was passed.

Mr. Moore, in his comments, noted that he was not here during the debate on Bill C-14. I was here on the debate on Bill C-14. I was a member of this committee, as were you, Madam Chair. I can say that at the time, the provision in the bill mandating a five-year review was considered to be a very important part of the bill. At the time, we were in uncharted territory. We had a Supreme Court decision in Carter that struck down the blanket criminal prohibition on medical assistance in dying. We were certainly starting from the parameters of Carter. There was, however, much that was unknown in terms of how to provide for a legislative response that satisfied what the Supreme Court called on Parliament to do, which was to strike a balance between respecting individual autonomy while at the same time protecting vulnerable persons through a carefully monitored and designed system of safeguards.

The process, starting with the special joint committee on physician-assisted dying, through to the passage of Bill C-14, was over a period of six months, from January 2016 to the end of June 2016. Between the special joint committee and the justice committee, we literally heard from a wide range of witnesses in a process that, although not perfect, was a marked improvement from the process that we had with respect to Bill C-7.

The purpose of establishing that five-year review was in recognition that it would provide sufficient time to determine what worked and what didn't, whether the safeguards were appropriate and whether there were changes needed. It also provided a period in which Bill C-14 could be implemented across Canada. I certainly thought at the time that this would have been the first step. There would have been a review and then a possibility for amendments to Bill C-14.

● (1250)

None of that happened, however. We didn't get a review in June of this year. Mr. Maloney made reference to the fact that there is COVID. Well, yes, there was then, and there is now. I don't believe that is a legitimate excuse for why a review could not and should not have taken place. The fact is that before COVID, this government decided to pre-empt that review, because Bill C-7 was introduced before COVID. It went considerably beyond the scope of the Truchon decision and removed, as we have heard, many important safeguards in Bill C-14. The idea that somehow COVID got in the way of a parliamentary review just doesn't add up.

The attitude of the government was “we know best” in moving ahead with legislation that fundamentally changes the landscape around the medical assistance in dying regime without undertaking any kind of review. The minister and members of the government bragged about their online consultation, which they say informed the drafting of Bill C-7.

I would note, Madam Chair, that several witnesses—including some who did participate between the online survey and the limited consultations that occurred I believe in February—came before our committee over the very short time in which we had hearings to indicate that all of those consultations were with a predetermined outcome. They did not believe that the government was interested in hearing all perspectives, but rather that it had a specific objective upon which the government wished to legislate and was seeking an outcome to validate proceeding in the manner that the government ultimately did with the bill we have before us, namely, Bill C-7.

I would also note that in addition to that consultation being predetermined in terms of its outcome or bias, as evidenced by a number of witnesses who stated this, the online consultation disadvantaged many vulnerable and marginalized Canadians. For those who don't have access to the Internet and those who have visual, mobility or cognitive impairments, their views, their perspectives, were ignored or were certainly made more difficult by what I think is really an insensitive process. People living in remote and northern communities, where were they during the online consultation?

Now we have this very unacceptable situation where we have a very bad piece of legislation that has been repudiated by every national disability rights organization in Canada and by over a thousand physicians, and we don't have a review. What is needed is that comprehensive review. It should have happened before Bill C-7.

It hasn't happened, but with this particular amendment, we would reinforce the need for that to happen, and for that to happen immediately, so that we can have true and meaningful consultation from all segments of Canadian society impacted by medical assistance in dying—by all of those groups—and do it in a comprehensive way and hear from voices that went unheard as this government has sought to ram through Bill C-7.

I happened to be at a press conference this morning where there were many voices, including indigenous voices, that have gone unheard in the four meetings we have had to hear from witnesses. I've said it before and I'll say it again: It need not have been this way. It shouldn't have been this way. It is this way because of what I would submit has been a reckless approach on the part of the government.

● (1255)

At the very least, this amendment underscores what should have happened and what absolutely needs to happen, and that is a review, not five years from now but in a manner that is as expeditious as possible. Certainly a one-year time frame is more than reasonable.

Thank you, Madam Chair.

The Chair: Thank you, Mr. Cooper.

We're now going to Madame Findlay, who is next on the list.

Go ahead.

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

I'll be fairly brief. I see the time we're running up against here.

Basically, I feel reviews are necessary. This is, as I referred to the other day, very significant, life-altering, pan-Canadian legislation that we're discussing. These are issues about procedures that a few short years ago weren't even allowed. We went into a whole new territory.

Now, with the changes to Bill C-14, which I was not in Parliament to debate, many of what I would have thought—and obviously my side of the table believes—were reasonable safeguards have been rejected by others here on the committee and by their parties.

I don't quite understand, to be honest, the comments of my colleague Mr. Garrison that this goes against what he is hoping for. Maybe I didn't understand clearly what my friend had to say, but the amendment put forward by Monsieur Thériault speaks of it being within 12 months. It doesn't say after 12 months or at 12 months. It says within one year.

It also says that it will “be undertaken by any committee of the Senate, the House of Commons or both Houses of Parliament that may be designated or established for that purpose.” As I read this reasonable amendment, which I support, what is being sought here is a mandated review within 12 months, which may be undertaken by this committee or it may be undertaken by a special committee. The point here is that there's a mandate to make sure it happens.

Again, I thought Monsieur Thériault's comments were very good, that this complements the legislation we are clearly moving towards passing here. It sends a clear signal to those wondering, on both sides of all these arguments, where we're going. It sends a clear signal, to those who may be thinking of court challenges or who may just be feeling that this changes their environment and their world view, that we as legislators take this seriously.

Four days on such significant and important legislation is not sufficient, I believe. The rest of the committee did not agree. They wanted this through quickly. I think we should have heard from more witnesses. I don't know what's going to happen in the Senate.

To me, there's nothing here that is stopping what Mr. Garrison was speaking to, which is to get on with this and get on with a review, a review that should have happened and that was not pursued by the Liberal government, even though they were mandated to do it. That I still don't understand.

We sit here with legislation that goes way beyond the Truchon decision. We as legislators are making decisions, it seems to me, based on which health care professionals we choose to listen to and whether or not we choose to listen to the organizations for persons with disabilities.

This is very significant legislation. I don't at all think that it will lead to every piece of legislation having a review clause in it. This is legislation that is in its own category, in my view, in terms of significance.

This amendment simply puts all of us as legislators and the government on notice that there's a process that would require a careful, proper, more thorough and better-informed look at legislation that is so significant that we are making changes to the criminal law of Canada and we are making changes to the provision of health care and palliative care. This committee has chosen not to put in safeguards for conscience rights of physicians. We've heard from physicians who say that they will have to leave their chosen profession if there are no such safeguards.

● (1300)

An earlier amendment was not passed, but this would be the opportunity to look at the lived experience and dying experience of people who are within this system who choose to end their lives this way, who change their mind, and who choose not to go down this path. It gives us an opportunity to look at what supports are in place, what true options are in place for people facing these tough decisions, and for their families, quite frankly, because there's more than just the individual affected.

It's a very reasonable amendment that would bring forward.... I don't trust the fact, to be perfectly honest, that when a review was already mandated and the government chose not to do it.... Unless we have it in the legislation, I'm not confident that asking this committee to look at it will work.

The government has shown that it is prepared to put forward legislation in this area that goes far beyond court decisions, that goes far beyond the directions of the court to date, and therefore this review is absolutely necessary. Canadians would expect no less of us.

Thank you.

● (1305)

The Chair: Thank you, Madame Findlay.

Mr. Lewis, go ahead.

Mr. Chris Lewis: Thank you, Madam Chair. I will be brief.

Earlier on in the debate, specific to this amendment, Mr. Maloney made reference to the fact that the review of Bill C-14 didn't get done because of the pandemic, and I respect that.

However, I have to say that.... I watch Sunday football, and I watch referees review calls on the field all the time during the pandemic. I watch hockey, and I watch referees review calls all the time during the pandemic. When I was a firefighter, we reviewed the actions on scene after incidents all the time, and I'm sure it still happens during the pandemic. I review my bank statement during the pandemic.

I would suggest that it's not because of the pandemic that this review did not get done. Let's call a spade a spade here. First of all, it's because the government decided to prorogue Parliament, so that's really why it didn't happen.

My point is this. If we talk about sports and we talk about my bank statement, as two examples, and if today, during the pandemic, these reviews are still being done, is Bill C-7, which deals with life-and-death decisions, not more important than sports and my bank statement? Absolutely, it is.

Mr. Thériault has brought forward what I believe is a great amendment. It at least gives us one more safeguard, for this committee to look back and review. Some of us won't be here in the next committee, so it provides that next level of safeguard, because quite frankly, Bill C-14 didn't get reviewed. It's vital, and it's due diligence on our behalf to see that going forward.

Thank you very much, Madam Chair.

The Chair: Thank you, Mr. Lewis.

I will now call the question on BQ-4.

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

● (1310)

The Chair: Shall the preamble carry?

(Preamble agreed to: yeas 7; nays 4)

The Chair: Shall the title carry?

Some hon. members: Agreed.

Mr. Michael Cooper: On division.

The Chair: Shall the bill as amended carry?

Mr. Michael Cooper: I think we should have a recorded vote.

The Chair: Okay.

(Bill C-7 as amended agreed to: yeas 7; nays 4)

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

Hon. Rob Moore: On division.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Thank you very much.

Just very quickly for members—

[*Translation*]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Madam Chair, you have been advised that I will be replacing Mr. Thériault once work on Bill C-7 is completed.

I'd like us to discuss the motion of which notice was given on November 3.

[*English*]

The Chair: Thank you, Mr. Fortin. I was just about to talk about what's going to happen in the next couple of meetings.

I am seeking the consent of the committee to have the first half of the meeting on Thursday for committee business, specifically with respect to Bill C-6. I seek the consent of the committee to be a little proactive and to invite the ministers responsible for Bill C-6 for the second hour of the meeting on Thursday to allow them to speak to Bill C-6 and then answer the members' questions.

[*Translation*]

Mr. Rhéal Fortin: As I understand it, we will consider my motion in the first part of the meeting and then move on to Bill C-6.

Is that correct?

● (1315)

[*English*]

The Chair: Thank you, Mr. Fortin.

As it will be committee business, members are welcome to discuss whatever needs to be discussed during that committee business. Obviously, we need to start with Bill C-6, as well, at the next meeting.

Mr. Virani—

[*Translation*]

Mr. Rhéal Fortin: I have a point of order, Madam Chair.

I want the following to be noted. I ask that, at the next opportunity—I know it won't be today, since it is already 1:15 p.m. and our meeting is almost over—we start by considering the motion of which I gave you notice on November 3.

[*English*]

The Chair: Monsieur Fortin, my apologies, sir. I don't think you're wearing a headset and I'm having difficulty with the interpretation.

[*Translation*]

I am sorry, I don't understand French.

Mr. Rhéal Fortin: No need to be sorry. I'm the one who is sorry.

Can you hear me?

[*English*]

The Chair: Yes.

[*Translation*]

Mr. Rhéal Fortin: That's good.

I wasn't wearing my headset. You were right. It was my mistake and I apologize.

I see that some kind of race is going on and that several committee members are trying to be first to ask that we discuss a motion. So I have just made that request. I wanted to make sure that you would take note of it and that, at the earliest opportunity—today's meeting is over, since it is already 1:16 p.m.—which would be next Thursday, we would start by discussing the motion of which I gave you notice on November 3.

Can we agree on that or would you like me to proceed differently?

[*English*]

The Chair: Monsieur Fortin, my apologies. The question I had asked the committee members before you started speaking was specifically about seeking the committee's consent to invite the two ministers who are responsible for Bill C-6 for the second—

Hon. Rob Moore: There's no consent.

The Chair: There's no consent. Okay.

Mr. Virani, I have you next on the speakers list on this.

Mr. Arif Virani: Madam Chair, given the time and the patience we have all observed through four meetings of clause-by-clause, I would move that the committee now adjourn.

The Chair: We will call the question.

(Motion agreed to: yeas 11; nays 0)

The Chair: Thank you very much, Mr. Clerk. Now that I have my gavel back, the meeting is adjourned.