



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Tuesday, February 16, 2021

The Honourable GEORGE J. FUREY,  
Speaker

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## THE SENATE

Tuesday, February 16, 2021

The Senate met at 2 p.m., the Speaker pro tempore in the chair.

Prayers.

[Translation]

### BUSINESS OF THE SENATE

**The Hon. the Speaker pro tempore:** Honourable senators, I received a notice from the Leader of the Independent Senators Group who requests, pursuant to rule 4-3(1), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Murray Sinclair, who retired from the Senate on January 31, 2021.

I remind senators that pursuant to our Rules, each senator will be allowed only three minutes and they may speak only once.

Is it agreed that we continue our tributes to our former colleague, Senator Sinclair, under Senators' Statements? We will therefore have up to 33 minutes for tributes. Any time remaining after tributes would be used for other statements.

[English]

### SENATORS' STATEMENTS

#### TRIBUTES

THE HONOURABLE MURRAY SINCLAIR

**Hon. Donald Neil Plett (Leader of the Opposition):** Honourable senators, on January 31, Senator Sinclair retired from the Senate after nearly five years of service. Notably, he was the first Aboriginal judge appointed in Manitoba, and during his time as a senator, he represented our province and the Indigenous peoples of Canada with diligence and compassion. He has been one of the trailblazers of reconciliation with Indigenous peoples in Canada, and despite differences of opinion, I know that I can speak for all senators in saying that we have the utmost respect for all that Senator Sinclair has achieved.

I want to take the time to thank the senator for his time serving on the Truth and Reconciliation Commission of Canada, founded in 2008. Its commitments led Stephen Harper's Conservative Government to make the first formal apology for the dark history of residential schools in Canada. Appointed as the Chair of the Truth and Reconciliation Commission by prime minister Stephen Harper in 2009, Senator Sinclair served on the commission with duty, leadership and dedication. The Truth and Reconciliation Commission successfully fulfilled its goal to document the impacts of residential schools in Canada by facilitating hundreds of hearings for the schools' survivors and former staff. The final

report they produced in 2015 not only fulfilled the commission's purpose, but symbolized an historical moment for Canada to reflect on this troubled part in our history, in plain sight, while fostering hope to build a unified vision for a future pursuing reconciliation between all Canadians.

Senator Sinclair displayed a deep dedication to reconciliation as Chair of the Truth and Reconciliation Commission, and he continued to display this deep commitment throughout his time as a senator as well. I admire the ways in which Senator Sinclair has pursued the work that he believes to be important, with excellence and commitment.

I have appreciated Senator Sinclair's perspective brought to the Red Chamber. Although we certainly had our policy disagreements, I fully agree with these words that Senator Sinclair spoke during his maiden speech in 2016:

Getting to the truth is hard, but achieving reconciliation will be harder. To achieve it, we in Canada must all work together.

Thank you, Senator Sinclair, for your service in the Senate of Canada, and thank you for your service to Canada.

**Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, how do we, in three minutes, speak of a man who is one of Canada's most accomplished political reformers? In his work as lawyer and judge, as the Chair of the Truth and Reconciliation Commission and most recently as our colleague in the Senate, Senator Sinclair diligently uncovered Canada's history of systemic state violence, which regrettably persists in different forms today. But his labour was also one of healing and a steadfast walking toward the bridge of reconciliation: toward a promised land I dearly hope we will see in the next generations.

Commenting on the Truth and Reconciliation Commission (TRC), Senator Sinclair said that:

... education was the primary tool of oppression of Aboriginal peoples, and miseducation of all Canadians, that we have concluded that education holds the key to reconciliation.

As a former educator, I could not agree more.

Being appointed to the Senate in 2016 alongside Senator Sinclair made my appointment doubly special. As a Manitoban, committed to doing my part in the reconciliation process, he had been central to how my family engaged it. My late husband, who worked as a lawyer on residential school cases, regularly turned to his writings for guidance. Today, one of my sons makes teaching of the subject a priority in his classroom. It goes without saying that the young lawyers he will mentor could not have asked for a better teacher.

Murray Sinclair has retired from the chamber. However, his presence will remain. The Senate has been enriched by his wisdom, leadership, contributions and pictures in the sky.

Murray's Ojibway name translates as "The One Who Speaks of Pictures in the Sky." As a student of several legal traditions — European and Indigenous — this perfectly represents the man, but here in the Senate, in his everyday relations, is a person who balances a soaring intellect and yet remains so down-to-earth. Senator Sinclair is a model in democratic deliberation: always respectful, always approachable, never letting the institutional structures of rivalry cast a shadow over our relations and the common project of service we are here to engage in at the Senate.

[Translation]

Thank you for everything, Murray. Your lasting legacy will live on long after your retirement. *Meegwetch*. Thank you.

• (1410)

[English]

**Hon. Brian Francis:** Honourable senators, I want to take a few minutes to pay tribute to our colleague and friend Senator Sinclair.

An articulate and outspoken champion of Indigenous peoples, Senator Sinclair has broken down barriers for generations to come. His leadership and contributions as a lawyer, judge, commissioner and, more recently, as a senator, have left an indelible mark on our collective memory.

It has been a pleasure to work with him and learn from him over the past few years, and I will miss his brilliant mind, wonderful sense of humour and big heart. However, his retirement is well deserved. Senator Sinclair has given so much of himself to others, and it has not always been easy. The impact of the often-heartbreaking testimony given by survivors of the residential school system at the TRC is felt deeply in his soul and body. The time has come for him to devote himself to his family and other passions.

Colleagues, I am mindful that this is not a goodbye but, rather, a "see you later," because our paths remain intertwined.

Senator Sinclair has played a critical role in educating the public about the true history of Canada and its relationship with, and treatment of, Indigenous peoples. In doing so, he has helped shape our shared journey of reconciliation.

Last December, during the fifth anniversary of the final report of the Truth and Reconciliation Commission, Senator Sinclair and the two other commissioners spoke about the overdue implementation of the Calls to Action. We were reminded then of our responsibility and obligation to move the path to reconciliation forward, not simply through words but, rather, concrete actions. This is a message we must all keep at the forefront of our thoughts and actions.

[ Senator Gagné ]

Senator Sinclair has also spoken about the role of education in reconciliation, once stating:

Residential schools were with us for 130 years, until 1996. Seven generations of children went to residential schools. It's going to take generations to fix things.

There is indeed a long process of learning and unlearning that all Canadians and all governments must take part in. We, as parliamentarians, are not immune. We must challenge each other to be and do better so we can lead by example in our workplaces and communities. This would be, in my humble opinion, the best way to honour the tireless efforts of Senator Sinclair and others dedicated to advancing true and lasting reconciliation.

Senator Sinclair, on behalf of the entire Progressive Senate Group, I wish you the best in this new chapter. Thank you, *wela'lin*.

**Hon. Mary Coyle:** Honourable senators, I'm honoured to be speaking to you from Mi'kma'ki and to be singing the praises of our newly retired colleague, the Honourable — and adorable — Murray Sinclair.

Colleagues, spending the last three years in the company of one of Canada's great leaders of our generation and one of my own personal heroes has been a gift I will always cherish.

The Honourable Murray Sinclair is a brilliant trailblazer, a down-to-earth and playful colleague, a person with deep respect for all creation and a highly masterful teacher.

As a trailblazer, our colleague Murray was out in front of the pack with many firsts along his professional trajectory. A lawyer, first Indigenous judge in Manitoba, co-commissioner of the Aboriginal Justice Inquiry, Chair of the Truth and Reconciliation Commission and the colleague we all know and love, Senator Sinclair.

As a playful colleague, Murray was good at disarming us all with a joke, witty quip or self-deprecating comment. Murray had us in the palm of his hand when he started a speech like this: "I introduce my comments with some trepidation, knowing that I stand between you and your dinner."

Although clearly a lot of fun, Senator Sinclair could never be considered frivolous. He is a man of substance, wisdom and deep convictions. In speaking about the Jane Goodall bill, Murray shared his wisdom in saying:

In many Indigenous cultures, we use the phrase, "all my relations" to express the interdependency and interconnectedness of all life forms and our relationship of mutual reliance and shared destiny. When we treat animals well, we act with both self-respect and mutual respect.

Senator Sinclair is a born teacher, and I can't think of a more noble role. He has brought thousands of people in his audiences around to understanding — to feeling — the fundamental truth about the tragedy and injustice of the residential school legacy by asking them to look in their cellphones for pictures of their children, grandchildren, nieces or nephews, and then asking them to imagine those children being rounded up by force and taken

away from family to schools where they would be taught that their language and culture are wrong and shameful. Senator Sinclair often said, “Education is what got us into this mess and education will get us out of it.”

Thank you, Senator Sinclair, for your insight, leadership, tenacity and your challenge to all of us. Murray, I wish you good health, an abundance of family joy and continued success on your life’s journey. Thank you, my teacher, Senator Sinclair.

[Translation]

**Hon. Pierre J. Dalphond:** Honourable senators, I would like to take a few moments to pay tribute to someone who is a former colleague in the Canadian judiciary and a former senator, but still a friend.

Senator Sinclair is a man who is imposing in every sense: physically, intellectually and morally. What a remarkable life he has led. He was the first Indigenous judge on the Provincial Court of Manitoba and one of the first judges appointed to a superior court by the federal government. Because of his great qualities, he was asked to chair the Truth and Reconciliation Commission, which produced a historic report whose teachings and recommendations will continue to guide us for a long time to come.

On a more personal note, I have to say that I would not have come to the Senate if not for the famous group of six appointed in March 2016. When I was appointed 18 months later, he was the first person I called to humbly ask him to be my mentor in the Senate, because I have to admit that I’m a fan of Murray Sinclair.

I had the great pleasure of working with him to promote some ideas on how to reform the operations of the Senate and define its role as an unelected chamber that, going forward, will be made up of non-partisan members.

Our Senate family is losing an important member, but the Senate’s loss is his immediate family’s gain, as his son Niigaan said so well, and I quote:

[English]

... as my father leaves his public life as a Senator — with his days as a commissioner, judge and lawyer a part of history — my family now get our time with him. While this will be a change for all of us (and he doesn’t even crack the top-five decision makers in our family) it’s well deserved — because we have been waiting a long time. . . .

Still, we are better off for all he did to get us here.

*Miigwech*, dad, and welcome home.

Thank you, Murray. *Meegwetch*.

**Hon. Marilou McPhedran:** Honourable senators, I will be brief, but every word spoken comes from the heart.

I was deeply honoured and inspired by the agreement of Senator Murray Sinclair to act as my sponsor on the first day that I joined the Senate, the same time as Senator Gagné and others

who have spoken. I won’t repeat the very deserved praise that has come to Senator Sinclair, but I do want to quote briefly from the Cree poet Billy-Ray Belcourt:

What is it to live, to suffer, and, above all, to love in an emotionally inflexible world fashioned to produce men who eat “too much of the sunset?” We are haunted by that turning point, brought back to it again and again. But it doesn’t once and for all consign us to a ravaged life. There is more to be said; there is another mode of life to inhabit.

For me, this tribute, along with the long list of contributions that Senator Sinclair has made to the Senate, is the way in which he is helping us, has helped us and will continue to help us understand that there is, indeed, another world to inhabit; that the future of our country depends on our implementing, to the best of our ability as senators, the Calls to Action of the commission and also in heeding the many ways over the almost five years that we were blessed to have him with us to understand better what we need to do as elders for our country. *Meegwetch*.

• (1420)

**Hon. Patricia Bovey:** Honourable senators, our esteemed colleague, honoured Manitoban and Canadian, Senator Sinclair has been the conscience and an inspiration for many. Words of appreciation for all his myriad contributions to his province, his communities and nation in so many spheres are, as a whole, inadequate, but I’m going to try anyway. My words are true and heartfelt.

Senator Sinclair’s judicial career is celebratory as the first First Nations judge in our province of Manitoba, but during his time on the bench, I wonder if you know about his simultaneous stage acting career? He was the voice and presence on high at left stage in a Manitoba lawyers’ production about 20 years ago of *Fiddler on the Roof* in support of the Royal Manitoba Theatre Centre. I was seated in row 2, and I can assure you that his presence and voice were felt. Indeed, his voice carried better than anyone else’s in the cast, and they were all accomplished speakers. Do we see a theatre career in the offing?

His work as a Truth and Reconciliation commissioner is well known and has been talked about by others. I want to convey my appreciation for the special ceremony at the University of Manitoba during my tenure as board chair the day Murray announced the transfer of material and records of the Truth and Reconciliation Commission to the university’s new Centre for Truth and Reconciliation. The emotion in the room was palpable. Murray, your work, passion and dedication, and that of the commission, must and will be a beacon for us for all years to come. We will get there, Murray.

Personally, I thank you for being a key part of my memorable day in this place as my sponsor and guide for my inauguration. Thank you, Murray.

Senator Sinclair, your insights and sensitivities in this chamber are much appreciated. I thank you on many levels. I have learned, and continue to learn, so much from you. Your challenge to Canada’s museum sector to lead the way in telling the truth of our history and to reconciliation is especially poignant. You were

heard. Education in those places where families go is important. Families don't go to schools together, but they do go to museums together.

I wish you and Katherine all the very best in the next chapter of your lives as you mentor young First Nations lawyers. They are lucky to have you for your shoulder and your advice. I look forward to your autobiography and to your continuing mentorship of me in the Senate and in my non-Senate life. I will miss your sense of humour and those Monday morning coffees in the Winnipeg airport before we departed for Ottawa.

Stay safe and good luck, my friend. You will be missed in this chamber, but I hope to see you soon. Thank you.

**Hon. Yvonne Boyer:** Honourable senators, I join you today to pay tribute to Senator Murray Sinclair. Senator Sinclair leaves the Senate after having spent five years representing the people of Manitoba, and indeed all Indigenous peoples, with honour and humility. Throughout his career, and especially his time in the Senate, he has always lived up to his Ojibway name, Mizanay Gheezhik, meaning "the one who speaks of pictures in the sky."

Like all of you, I know that Senator Sinclair is far from finished giving to public life, but the time has come for him to focus on what matters most — his family. However, in his fashion, he has already committed to mentoring young lawyers in Indigenous law and to writing a memoir that will look at Indigenous identity and the importance of understanding the past to build a better future. That sure sounds like a restful retirement to me.

Senator Sinclair came to the Senate having gained an international reputation as one of Canada's great legal minds. He served as co-chair of the Aboriginal Justice Inquiry and chief commissioner of the Truth and Reconciliation Commission. He was the first Indigenous judge appointed in Manitoba, and the second ever across Canada. His 25-year career in Manitoba's justice system continues to inspire generations of young Indigenous lawyers throughout the world.

During his time in the Senate, he applied his vast experience and deep and inherent legal knowledge to each piece of legislation that he studied. He viewed his work through an Indigenous lens, and he used his hands-on experience as a judge to improve legislation. He worked tirelessly to protect Indigenous languages, reform the child welfare system and expose institutionalized systemic racism. He worked towards establishing a national day for truth and reconciliation, was the Senate sponsor for the first UNDRIP bill and recently introduced the Jane Goodall act.

Senator Sinclair retires from the Senate having made it a much better place, one that furthers the interests of Indigenous people, and he leaves behind an incredible legacy that will inspire all of us who follow in his footsteps. I am privileged to have worked with him, and I wish him the greatest of success in his future endeavours.

Senator Sinclair is a judge, a lawyer, a law professor, an elder, a mentor, a friend and most importantly, a father and a grandfather. Senator Murray Sinclair, thank you for being who you are, for your contributions to the Senate of Canada and

beyond, and for an inspiration to us, our children and grandchildren, which you will always continue to be. *Meegwetch*, my friend.

**Hon. Marty Klyne:** Honourable senators, I rise in tribute to the great Senator Murray Sinclair. Our friend has now retired to mentor Indigenous lawyers, write a memoir and maybe a book of stories told by him to his granddaughter, and to avoid becoming Governor General.

Murray's national legacy is well-known. One of Canada's most respected Indigenous leaders, an admired jurist and a fearless champion for residential school survivors. He is a hero to most Canadians for bringing truth to our history and showing us the path to reconciliation and a better country for everyone. His work outside this Senate is greatly appreciated, well recognized and well documented for generations to come.

I will focus on Murray's legacy in this chamber. Personally, I will cherish the memory of Murray escorting me into my swearing and the inspiration I gained from observing his approach to his work. I will not be alone in acknowledging Murray's gift for validating the presence and importance of others. He draws you into the circle, he listens to everyone before he speaks. His words carry weight and often command a pause in the discussion. It sort of reminds me of the 1970s TV commercial, when the restaurant goes silent to hear a stock tip, "When E.F. Hutton talks, people listen."

Murray achieved an impressive legislative record. He sponsored Bill C-51 requiring Charter compliance statements for all government bills; Bill C-75 to overhaul the Criminal Code, including banning peremptory jury judges following the death of Colten Boushie; as well as Bill C-91, to protect and revitalize Indigenous languages. He sponsored Bill C-262, the UN Declaration on the Rights of Indigenous Peoples, laying the foundation for government Bill C-15. Murray called the introduction of that legislation "a historic milestone on the path to reconciliation."

Murray also has a legacy of groundbreaking advocacy for the natural world, establishing laws to protect whales and dolphins from captivity. Last year, he authored the Jane Goodall act. I am deeply honoured to take on the sponsorship of that bill and ask for your help in speaking for the best interests of animals. In addition, Murray always spoke for children, working to repeal the law that authorizes the use of corporal punishment on kids, and helping restore Indigenous jurisdictions over child and family services.

My colleagues have referenced his Ojibway name, which means "the one who speaks of pictures in the sky." It is fitting, then, that he gives us a vision for Senate reform, seeing this place as the council of elders we will become. Murray, as you enjoy your retirement with your family and the time to pursue passions, I bid you all the very best and say thank you, *meegwetch*.

**Hon. Dan Christmas:** Honourable senators, I rise today to speak in tribute to our colleague, friend and elder, Senator Murray Sinclair. Describing and celebrating the talents and achievements of Senator Murray, as I call him in a spirit of deep affection, is no easy task. There is a near bottomless well of groundbreaking achievement, of historic firsts, of triumphs over adversity and repeated acts of compassion, one hardly knows where to begin when celebrating a person of such giftedness.

• (1430)

We all know of the milestones Senator Murray has achieved throughout his distinguished career — being named Manitoba's first Indigenous judge, helping to lead the Aboriginal Justice Inquiry of Manitoba, and certainly his historic work as chair of the Truth and Reconciliation Commission. It is important to highlight that all of these milestone endeavours occurred before he was named to this august chamber.

Since that time nearly five years ago, Senator Murray has become a beacon for the Indigenous community, not only in the halls of power on Parliament Hill but across Canada.

In one of his earliest speeches here in the chamber, where Senator Murray introduced the notion of the Senate as a council of elders, he reminded us that:

Elders are consulted by the community about the community's or individuals' most significant problems, and their advice is sought to help those who have the ultimate responsibility to govern the community and make final decisions about the lives of those within it.

Elders do not become or take up the cause of one side or the other in a dispute; rather, they work to help others overcome their differences. Elders help the community, including younger generations of leaders, to find the best path.

Senator Murray concluded:

At its best, the Senate of Canada is our country's council of elders. With all of you, with your wisdom, experience and knowledge, I know the Senate will often be at its best. . . .

Senator Murray Sinclair has served this chamber ably as its *de facto* elder.

Honourable senators, I will conclude with what American labour and civil rights activist Walter Reuther once wrote:

There is no greater calling than to serve your fellow men. There is no greater contribution than to help the weak. There is no greater satisfaction than to do it well.

This describes the contributions of Senator Murray to a tee.

To my honoured colleague, my dear friend, my Senate elder, I offer my profound thankfulness, gratitude and very best wishes as you embark on the next phase of your remarkable journey mentoring young Indigenous lawyers.

It has been a humbling and instructive experience serving with you, and I am committed to furthering the cause of championing Indigenous affairs and reconciliation with the same dedication you brought to these proceedings. In this regard, you have taught us so very much, and Canada is all the better for it.

*Wela 'lin.* Thank you.

**Hon. Raymonde Saint-Germain:** Honourable senators, I speak today to pay tribute to the Honourable Senator Murray Sinclair.

I remember a dialogue that Senator Sinclair once initiated with me in French. While I was expecting a few words as a courtesy, our whole five minutes or so of conversation proceeded with him demonstrating his excellent understanding of French. He then told me that his grandmother had taught him French when she took care of him and his siblings after his mother died shortly after he was born.

To me, this is a testament to his modesty and to the fact that he is a perfectionist. He will only discuss a subject or speak a language in public if he has mastered it.

Honourable Senator Sinclair came to the Senate in the spring of 2016 and decided to sit as an independent. He perfectly personifies independence, and he demonstrated it throughout his tenure in this upper chamber with his impartiality, truth-speaking, and his aversion to groupthink and bias. It is not surprising that he was such an impressive senator. Indeed, his successes resulted from his experience and his expertise.

His personal qualities are also closely connected to his influence. The respect with which he treated everyone, his compassion, his communication skills and his very subtle sense of humour also contributed to his impact on us. Whenever Murray Sinclair spoke in this chamber, he was listened to with deference for his knowledge as well as for his unwavering dedication to the people.

I very much appreciated him, and still appreciate him, as a unifying figure in our country. He really came to the Senate of Canada to serve his fellow citizens and to build bridges between Aboriginal peoples and all Canadians, and he did so with humility and in a constructive, open-minded and reconciliatory way.

Honourable Senator Murray Sinclair, thank you for giving us and all our fellow citizens the privilege of still hearing your sound and strong voice of a bridge builder and conciliator. Thank you for helping us move forward to a fairer and more inclusive country.

From myself and the members of the Independent Senators Group, I thank you for continuing to share your wisdom with us. We wish you great success, health and happiness. *Chi-miigwech.*

**Hon. Kim Pate:** Honourable senators, I join the chorus of tributes to Senator Sinclair. We are grateful for all he is and all he has contributed to this place, this country and the world.

Senator Sinclair is a loving husband, father, grandfather, mentor, colleague and friend. From being invited to the ceremony in which he was presented with the Key to the City of Ottawa — he wanted me to know that it also unlocks the local jail — to his guest lectures in law classes, quiet moments with various members of my family, and attending the swearing in of my partner Pam as a federally appointed justice of this province, I have been honoured and humbled to count myself among so many he has supported, mentored and inspired.

Throughout his life, Senator Sinclair has achieved the highest honours, set tracks and blazed trails, first as a lawyer specializing in Indigenous legal issues going into prisons, and then to his appointment as Manitoba's first — and Canada's second — Indigenous judge, his leadership of the Aboriginal Justice Inquiry of Manitoba, the TRC, his work here in the Senate of Canada, and mischief-making extraordinaire.

As Senator Sinclair spends time with his beautiful wife Katherine, his children and grandchildren and mentors upcoming generations of creative, courageous and brilliant Indigenous lawyers, I have no doubt that together their work and leadership will immeasurably enrich the legal profession, the pursuit of justice, fairness and equality for all on Turtle Island and around the globe. Given his taste in footwear, I have no doubt they will also keep Canada's Fluevog distribution liquid.

We are grateful, Senator Sinclair, that you will continue to support and guide our work with your brilliant intellect and your wonderful wit, but most particularly with your unparalleled courage in challenging Canada and this chamber to confront its legacy of racism and colonialism and to move forward as we strive to fully implement the Calls to Action of the TRC and fully embrace what you envisioned in terms of both truth and reconciliation. Thank you for your faith and insistence that together we and all of Canada can rise to this challenge.

Senator Sinclair, it is our incredible privilege and our collective responsibility to have served alongside you in this place as we endeavour to walk with you and honour your life's work and your unwavering commitment to securing a better future for Indigenous peoples and, ultimately, for all of us.

*Chi-miigwech*, Senator, Justice and Dr. Sinclair.

## ROUTINE PROCEEDINGS

### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

#### FOURTH REPORT OF COMMITTEE TABLED

**Hon. Sabi Marwah:** Honourable senators, I have the honour to table, in both official languages, the fourth report of the Standing Committee on Internal Economy, Budgets and Administration entitled *Senate Harassment and Violence Prevention Policy*.

[Translation]

### OFFSHORE HEALTH AND SAFETY ACT

#### BILL TO AMEND—SECOND REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ADOPTED

**Hon. Paul J. Massicotte,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Tuesday, February 16, 2021

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### SECOND REPORT

Your committee, to which was referred Bill S-3, An Act to amend the Offshore Health and Safety Act, has, in obedience to the order of reference of December 8, 2020, examined the said bill and now reports the same with the following amendments:

1. *Clause 1, page 1:* Replace line 15 with the following:  

**“repealed on the expiry of seven years after the day”.**
2. *Clause 2, page 2:* Replace line 3 with the following:  

**“repealed on the expiry of seven years after the day”.**
3. *Clause 3, pages 2 and 3:*
  - (a) On page 2,
    - (i) replace line 7 with the following:  

**“December 31, 2021, then”,**
    - (ii) replace line 25 with the following:  

**“section (1) are repealed on December 31, 2021, un-”;**



(b) on page 3, replace line 12 with the following:

[*Translation*]

“section (1) are repealed on December 31, 2021, un-”.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

PAUL J. MASSICOTTE  
*Chair*

(For text of observations, see today's Journals of the Senate, p. 349.)

• (1440)

[*English*]

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this report be taken into consideration?

**Senator Massicotte:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be considered now.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. Mohamed-Iqbal Ravalia:** Honourable senators, I move that the report be adopted now.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill, as amended, be read the third time?

**Senator Ravalia:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that the bill, as amended, be placed on the Orders of the Day for third reading later this day.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

(On motion of Senator Ravalia, bill, as amended, placed on the Orders of the Day for third reading later this day.)

## THE ESTIMATES, 2020-21

### NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (C)

**Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2021; and

That, for the purpose of this study, the committee have the power to meet, even though the Senate may then be sitting or adjourned, with rules 12-18(1) and 12-18(2) being suspended in relation thereto.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

[*English*]

## THE SENATE

### MOTION TO AFFECT TODAY'S SITTING ADOPTED

**Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That, notwithstanding any provision of the Rules, previous order or usual practice, when the Senate sits today, the evening suspension be for one hour today, and start at 6:30 p.m., even if a senator is speaking at that time.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to.)

[Translation]

## ADJOURNMENT

### NOTICE OF MOTION

**Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 23, 2021, at 2 p.m.

[English]

### CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

LEGISLATIVE SUMMIT OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES, AUGUST 5 TO 8, 2019—REPORT TABLED

**Hon. Michael L. MacDonald:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Legislative Summit of the National Conference of State Legislatures, held in Nashville, Tennessee, United States of America, from August 5 to 8, 2019.

ANNUAL NATIONAL CONFERENCE OF THE COUNCIL OF STATE GOVERNMENTS, DECEMBER 4-7, 2019—REPORT TABLED

**Hon. Michael L. MacDonald:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Annual National Conference of the Council of State Governments, held in San Juan, Puerto Rico, United States of America, from December 4 to 7, 2019.

ANNUAL WINTER MEETING OF THE NATIONAL GOVERNORS ASSOCIATION, FEBRUARY 7-10, 2020—REPORT TABLED

**Hon. Michael L. MacDonald:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Annual Winter Meeting of the National Governors Association, held in Washington, D.C., United States of America, from February 7 to 10, 2020.

GREAT LAKES DAY AND GREAT LAKES CONGRESSIONAL BREAKFAST, MARCH 3-5, 2020—REPORT TABLED

**Hon. Michael L. MacDonald:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Great Lakes Day and Great Lakes Congressional Breakfast, held in Washington, D.C., United States of America, from March 3 to 5, 2020.

• (1450)

[Translation]

### CANADA-EUROPE PARLIAMENTARY ASSOCIATION

FIRST PART, 2021 ORDINARY SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, JANUARY 25-28, 2021—REPORT TABLED

**Hon. Lucie Moncion:** Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Europe Parliamentary Association concerning the First Part of the 2021 Ordinary Session of the Parliamentary Assembly of the Council of Europe (PACE), held in Strasbourg, France, from January 25 to 28, 2021.

[English]

### THE HONOURABLE MURRAY SINCLAIR

#### NOTICE OF INQUIRY

**Hon. Pat Duncan:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the career of former senator the Honourable Murray Sinclair.

## QUESTION PERIOD

### PUBLIC SERVICES AND PROCUREMENT

#### COVID-19 VACCINE PROCUREMENT

**Hon. Donald Neil Plett (Leader of the Opposition):** Honourable senators, my question again is for the government leader in the Senate.

Senator Gold, last week, our Premier of Manitoba, Brian Pallister, did what the Trudeau government should have done months ago. The premier announced an investment in domestic

vaccine production with Providence Therapeutics to provide Manitoba with two million doses of their vaccine candidate. Premier Pallister compared vaccines to insurance, saying:

Insurance against COVID is important. It's insurance against sickness. It's insurance, potentially, against death, too.

The premier also said Manitoba is being blocked from signing its own deal with major vaccine suppliers because their deals with the Trudeau government prevent them from doing so.

Leader, instead of praising Manitoba's leadership or defending your decision to centralize vaccine procurement, your government attempted to discredit our premier, Brian Pallister. Why?

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senator, thank you for your question, but the premise of it is not correct. This government has taken a multi-pronged approach to its procurement strategy and, as I've reported, has secured enough vaccines for everyone in Canada who wishes to be vaccinated to do so by the end of September.

We know this virus is going to be with us for some time, and that's why the government is making long-term investments in domestic manufacturing for PPE and vaccines.

I have been advised that the federal government welcomes Manitoba's interest in domestic biomanufacturing for future needs, and at no point, senator, has the federal government prevented provinces from undertaking their own procurement.

**Senator Plett:** I am not even sure, senator, how I respond to that because when you say the premise of my question was incorrect, your answer is as false as the minister's answer was when she said Manitoba was not being prevented, when in fact they are being prevented. My question was why. That was a one-word question. You never even got close to answering it.

The Trudeau government didn't give Providence Therapeutics the support they asked for last year, leader. Manitoba has taken the lead here again, much to the chagrin of the Trudeau government. And now, because they never had a back-up plan, the Trudeau government says they will meet with the provinces soon to discuss domestic vaccine production.

Leader, why has this discussion not happened already? When it comes to vaccines, why is the Trudeau government always several steps behind?

**Senator Gold:** Your question of why assumed that the government had blocked procurement, and that is not the case. The Government of Canada is in regular contact with the provinces because we share a responsibility to both plan and implement the rollout of the vaccine strategy for the benefit of all Canadians, and the federal government remains committed to doing so for the well-being of all Canadians.

**Hon. Leo Housakos:** Honourable senators, my question is for the government leader.

Senator Gold, your government has announced a deal with Novavax to produce vaccines at the same Montreal facility that was supposed to have been producing vaccines by last November as part of a deal with Chinese pharmaceutical company CanSinoBIO. Although it took months for Canadians to find out and months for your government to start pursuing other avenues of vaccine procurement, that deal actually fell apart just a few days after it was announced.

Senator Gold, why didn't your government immediately try to find a replacement manufacturer and proceed with ensuring that the facility was still ready in the meantime? And what happened to the \$44 million investment of our tax dollars? Why hasn't this government, a year later, found alternatives to the domestic manufacturing of vaccines?

**Senator Gold:** Thank you for your question, senator. Of course, the question of the manufacturing in Canada, and more generally the provision of vaccines, is a matter that occupies all of our concern and attention. As the Minister of Public Services and Procurement announced some weeks ago, this government made serious efforts with each and every one of the firms with which it had contracted supplies to see whether they would be able, willing and capable of having those vaccines produced in Canada. Regrettably, that was simply not the case.

The government remains committed to enhancing, developing and strengthening our domestic manufacturing capacity so that, when future needs arise, we will be in a good position to respond to them.

**Senator Housakos:** Senator Gold, when it comes to all elements of dealing with vaccines and COVID, this government has been a disaster.

We now know the deal fell apart just three days after being announced, when the Chinese government refused to allow shipments of the vaccine to Canada for clinical trials. That's what happens when you deal with communist regimes like China, Senator Gold.

But even now, your government didn't learn its lesson because you've turned around and entered into another ill-advised partnership with state-controlled Huawei, again using the tax dollars of hardworking Canadians and putting our nation's security at greater risk in so doing.

Senator Gold, at what point does your Prime Minister and leader abandon his reckless obsession with appeasing and trying to emulate China, and at what point does he put Canada and Canadians first?

**Senator Gold:** Thank you for your question. This government is not engaged in a policy of appeasement with China; on the contrary. Canada is standing up for the interests of Canadians, whether they are those who are arbitrarily detained in China or Canadians who are otherwise poorly treated.

It is also standing up for the principle that, in this complicated world, and given the very complex and intertwined relationship we and many other countries have with China, we are working with our democratic allies to exert pressure collectively on the Chinese government.

The announcement yesterday by the Minister of Foreign Affairs that Canada is leading a multilateral coalition to register the unacceptability of the arbitrary detention of citizens is one step, but only one step, in that direction.

## HEALTH

### UNIVERSAL PHARMACARE

**Hon. Rosemary Moodie:** Honourable senators, my question is for the Government Representative in the Senate.

Senator Gold, poor access to pharmaceutical drugs has been long recognized as an issue facing many Canadians, especially the working poor. In fact, your government recognized as such when the Advisory Council on the Implementation of National Pharmacare published its final report in June 2019, which strongly endorsed universal pharmacare.

In Budget 2019, the government announced three key elements to move us closer to pharmacare: first, the formation of the Canadian drug agency; second, the development of a national formulary; and third, a national strategy for rare diseases.

Senator Gold, can you please tell us what progress has been made by the government on each of these three issues?

• (1500)

**Hon. Marc Gold (Government Representative in the Senate):** Senator, thank you for your question and for underlining the importance of reasonable access to the drugs Canadians depend upon for their well-being. This government looks forward to Pharmacare being implemented. It will make a huge difference in the lives of Canadians.

While the government's immediate focus is on fighting COVID-19 and supporting Canadians as we recover from this crisis, the government continues to make progress on implementing these important long-term commitments.

I've been advised of the following steps that have been taken. This government is sitting down with the provinces and territories to develop a universal Pharmacare system guided by the principles of the *Hoskins's Advisory Council report* in 2019, it has taken action to bring down the cost of rare-disease drugs and to establish a Canada Drug Agency to make drug purchasing more efficient.

It's an important issue, senator. Thank you for your question. The government continues to work for the provinces, whose jurisdiction over health care is clear, and the government is working in partnership to advance this important industry.

**Senator Moodie:** Senator Gold, all too often, public formularies are developed with the needs of adult patients in mind. Children and youth have different prescription needs, require different medications for different indications and in different dosage forms than older Canadians. How will the government ensure that the national formulary is sensitive to the

unique needs of the pediatric population? What will the government do to guarantee that national Pharmacare works for all Canadians, including our youngest citizens?

**Senator Gold:** Thank you, senator, for that question. The way in which Pharmacare will meet the needs of all Canadians — young, old or in between — is by this government's continued commitment to work with the provinces and the experts in health care, to make sure the program that is designed, together, and along with Indigenous communities, will reflect the true and diverse needs of all segments of our population.

## TRANSPORT

### ALASKA TO ALBERTA RAILWAY

**Hon. Pat Duncan:** Honourable senators, my question is for the Government Representative in the Senate. Shortly after President Joe Biden was elected, Prime Minister Trudeau and the President spoke to discuss issues of importance to both Canada and the United States. A media release put out by the Prime Minister's Office on January 22 states that they discussed "... strengthening Canada-U.S. supply chain security and resilience."

In September of 2020, the former president Trump issued a presidential border-crossing permit for the Alaska – Alberta Railway Development Corporation to lay tracks across the border between Alaska and the Yukon. The A2A Rail, as it is called, is an estimated \$22-billion railway project connecting Alaska to Alberta, that will run from Delta Junction in Alaska through the Yukon, potentially northeast British Columbia, the Northwest Territories and on to Fort McMurray in Alberta.

This project will potentially span two Canadian provinces and two Canadian territories, and would likely require a joint panel review by the Canadian Impact Assessment Agency and the Yukon Environmental and Socio-economic Assessment Board, along with Northwest Territories, B.C. and Alberta environmental assessment agencies. The Alaska – Alberta Railway Development Corporation is saying they are expecting to submit a project description by Q2 of this year. This project is of significant interest to Canadians.

My questions are: Was this project and the permits issued by the former president discussed by the two leaders? And if the government leader could advise: Has the Prime Minister's Office undertaken any planning or discussions with First Nations' governments or the premiers of the Yukon, B.C., Alberta or the Northwest Territories?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you, senator, for the question. The project sounds promising and of great interest to Canada and its regions. I will have to make inquiries as to both of your questions, and I will be pleased to report back to the chamber as soon as I receive answers.

[Translation]

[English]

## FOREIGN AFFAIRS

## HEALTH

## INTERNATIONAL ORGANIZATIONS

## COVID-19 VACCINE ROLLOUT

**Hon. Jean-Guy Dagenais:** My question is for the Leader of the Government in the Senate. Yesterday, Nigeria's former finance minister, Ngozi Okonjo-Iweala, was chosen as Director-General of the World Trade Organization, a position our own former finance minister, Bill Morneau, said he had his eye on when he resigned last August. Mr. Morneau bowed out of the race in January, saying he didn't have enough support, so I'd like to know how the Trudeau government supported his international ambitions. Let me add this: Did Mr. Trudeau invest as much effort and money as he did when he tried to buy a UN seat, or was Mr. Morneau's candidacy merely a smokescreen to help the Liberals cover up the fact that their finance minister had to step down because of his highly dubious involvement in the WE Charity scandal?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. I wish I could answer you from time to time without questioning the premise of your queries, but you're making that very difficult, my honourable friend. That said, I don't have that information and I must admit that I'm not sure I would be allowed to disclose it if I did, but I will certainly make inquiries, ask some questions and get back to you with a response if I have one to provide.

## FINANCE

## MARK CARNEY'S POSITION AS ADVISER

**Hon. Jean-Guy Dagenais:** Since we're talking about the Minister of Finance, I'd like to take this opportunity to speak with you again about Mark Carney, whom the Prime Minister hired to serve as an adviser on the post-pandemic economic recovery when Mr. Morneau stepped down. First of all, you never answered my question from back in October regarding the terms and conditions of his employment, but I have another question to ask today. Is he still working as an adviser to the government, considering the rumours that Liberal strategists are trying to figure out how he might replace your Prime Minister?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for the question. As the Government Representative, I always do my best to answer with facts, not only for our colleagues in this chamber, but for all Canadians who are watching, including members of my family and yours, as they're interested in our deliberations. I will not comment on the rumours you just mentioned.

**Hon. Jim Munson:** Honourable senators, my question is for Senator Gold, the Government Representative in the Senate. I'm trying to give voice to the disability community, particularly those with autism, Down's syndrome and other intellectual disabilities. I've been trying to get an answer for two weeks, Senator Gold, and you've talked about making inquiries. It seems the provinces aren't getting the message, and it concerns me.

On the weekend, we saw Ontario give priority to adults 80 and over, Indigenous adults, health care workers and adult recipients of chronic home care. Yet, there has been no answer to what the federal government is doing in conjunction with the provinces to get these people with disabilities, who are vulnerable, vaccinated.

I remind you of the U.K. report that found that adults with developmental disabilities are four to six times more likely to die from COVID. Has the federal government made any progress with the provinces to include Canadians living with disabilities on the vaccination priority list?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your ongoing commitment to giving a voice to those in disability communities.

I have been advised that the government has asked the National Advisory Committee on Immunization, which is an independent and external group of experts, to provide recommendations as to whom should be prioritized for vaccination, and these recommendations will inform both the provinces and the territories as they fulfill their responsibilities in delivering vaccines.

The latest information I have, Senator Munson, is that disabled Canadians are not yet at the top of the list or given priority at this stage in the rollout. The information that I have and the most recent recommendations focus on racialized groups and essential workers, who have been especially hard hit by COVID. I understand that is the recommendation of external experts at this stage.

• (1510)

But thank you again for your question. I will continue to make inquiries, because I expect and welcome your ongoing questions on this subject.

**Senator Munson:** Thank you. I did talk about that external advisory board last week and their recommendations. If you go on their website, there is still nothing there that states anything having to do with persons with disabilities.

To me, this is an issue of concern for the hundreds of thousands of Canadians who really don't have a voice. I must say I'm deeply disappointed that we haven't heard more. I'm glad to hear this, but we should be taking another approach.

What does it take but a telephone call or telephone calls from the Prime Minister to the provinces who appear to be silent on this to say, "Let's get this job done for those with disabilities. Let's get them vaccinated. Let's protect the health-care workers. Let's protect the parents in the homes of these men and women who are vulnerable to COVID."

**Senator Gold:** Senator, I think we all agree that the groups you mention, including those with disabilities, should be protected as quickly and as soon as possible. The approach of this government with regard to this issue, however, has been to rely upon independent and expert advice, and their advice, to date, has prioritized other groups. It's frustrating for those who are not yet at the head of the queue, and it is cold comfort, no doubt, for me to say that we still have to be patient as we receive more vaccines and as the rollout continues. Thank you, again, senator, for your question and your commitment.

## FINANCE

### COVID-19 PANDEMIC RESPONSE PLAN

**Hon. Elizabeth Marshall:** Honourable senators, my question is also for the Leader of the Government in the Senate.

Senator Gold, over the past year I've been trying to track government's COVID-19 spending, and despite the unprecedented level of spending, financial and program spending is almost impossible to find. I've asked you in this chamber. I've asked the Minister of Finance and the President of Treasury Board looking for the information. Even the Senate's National Finance Committee recommended that this information be provided.

Last week, there was a *Global News* article indicating that senior political staffers from the Prime Minister's Office and another cabinet minister's office privately discussed in June the withholding of information from Canadians about the government's response to COVID-19. Specifically, the Liberal staffers were concerned that government could be held accountable for the billions of dollars in spending if it provided too much information.

Senator Gold, now that it's out in the open that government is deliberately withholding this information, can you explain why the government is withholding the information from Canadians, the very people who are going to pay for these programs?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you, senator, for your question and for your ongoing determination to get access to and have clearer ways in which financial information can be analyzed and dealt with.

This government has been transparent with Canadians, and the discussions that take place between ministers and their staff as they struggle to work through all of the issues are normal parts of the operations of government. The fact is that the government has

been clear about what it is spending and on what it is spending, and ministers have appeared in this chamber and have been questioned by senators as they should be.

In addition, senator, I would hope, as I have proposed in the past, that either a special committee of the Senate or, indeed, the Finance Committee or other committees will take up the challenge of analyzing, at the appropriate time, the lessons learned from this extraordinary period that we're living through.

**Senator Marshall:** Senator Gold, given the amount of information, though, I haven't been able to find it in the time I've devoted to tracking the information, I can assure you that the government has not been transparent.

But I would like to shift now from that spending that they've already done. I'd like to look to the future a little bit. Two years have passed now without a budget — two full years. Can you tell us when the government will table its budget for 2021?

**Senator Gold:** Thank you for your question. I think all Canadians are eager for the budget. I do not have a specific date to report. The fiscal update that the minister provided gave Canadians a good picture of where we were. The new Minister of Finance is working diligently on her first budget, and we look forward to receiving it in a timely fashion.

## CITIZENSHIP, IMMIGRATION AND REFUGEES

### IMMIGRATION PROCESSING BACKLOG

**Hon. Salma Ataullahjan:** Honourable senators, thousands of families are separated due to the growing backlog in our immigration system, which has been exacerbated by the pandemic. The issue is pressing, affecting these families' relationships, mental health and their perception of Canada.

Last July in the other place, Minister Mendicino stated that Immigration, Refugees and Citizenship Canada is working diligently to find innovative ways to ensure that as many families as possible are reunited. Last month during an interview, Minister Mendicino stated that IRCC has been innovating during the pandemic.

Senator Gold, many Canadians have reached out to me and would like to know the exact nature of these innovative ways to reunite families. Additionally, what resources have been allocated to deploy such innovative solutions?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question, senator. I could well imagine the frustration of families who haven't been able to benefit from the programs, and this government knows how important it is to so many people.

Although a maximum of 10,000 applications were opened in 2020, in 2021 we will open up a new initiative, a new intake, to accept a total of 30,000 new applications.

The government is committed to increasing the number of officials that are working on applications and otherwise doing everything it can to make the process facilitative to those who seek to come to Canada.

**Senator Ataullahjan:** Senator Gold, last fall, the IRCC had planned to adjudicate 6,000 spousal applications each month between October and December 2020, yet thousands of families are still waiting to be reunited. Senator Gold, what is the current timeline to reunite these families who have been waiting months and, in most cases, years?

**Senator Gold:** Thank you for your question. I cannot answer with a specific timeline. I will certainly make inquiries and report back to the chamber.

## PUBLIC SERVICES AND PROCUREMENT

### COVID-19 VACCINE PROCUREMENT

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Honourable senators, my question for the government leader in the Senate concerns the slow pace of vaccinations in our country. Over the last three weeks, my province of British Columbia received just 21,000 doses of the Pfizer vaccine. The U.S. vaccinates that many every 30 minutes. Canadians are becoming increasingly agitated over the secrecy surrounding the pace of vaccinations. Last Friday, a committee in the other place tried to request those questions, but Liberal members filibustered for hours, denying Canadians answers.

Leader, if your government has nothing to hide, why won't you release the details?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. The delays in deliveries are a matter of great concern, not only to this government but, of course, to all Canadians. Indeed, we are gratified that it appears as if significant new deliveries are on their way from Pfizer, although I read this morning that the weather conditions in the United States have delayed them by one day.

• (1520)

But with regard to your question, senator, as I have answered on more than one occasion, this government has entered into contracts with many suppliers. They are working regularly with the suppliers to ensure that the deliveries come as promised. Again, the government remains confident that it will meet — if not exceed — its targets of having all Canadians who wish to be vaccinated done so by September.

## ORDERS OF THE DAY

### CRIMINAL CODE

#### BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT— SPEAKER'S RULING

**The Hon. the Speaker pro tempore:** Honourable senators, I will now defer to the Speaker for a ruling on the point of order about Bill C-7.

**The Hon. the Speaker:** Honourable senators, I had intended to be in the Senate Chamber today, but in light of the evolving situation in Newfoundland and Labrador, I felt it was important to show a scrupulous respect for the safety measures that have been established by the public health authorities in Newfoundland and Labrador.

It is now my intention to rule on the point of order raised last week. After I have given my ruling, I will again ask Senator Ringuette to preside over the sitting. I thank you, colleagues, for your understanding, and hope that you will all remain safe.

Honourable senators, I am ready to rule on the point of order raised by Senator Gold on February 11, 2021, concerning Senator McPhedran's amendment to Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). The concern was that the amendment does not respect the basic objective of the bill and is fundamentally destructive of its principle. After hearing arguments on the point of order, the Speaker pro tempore took the matter under advisement. As provided for in the order of February 8, governing proceedings on Bill C-7, debate then continued pending a ruling.

Rule 10-4 states that "The principle of a bill is usually debated on second reading." Second reading is thus a critical stage in the legislative process, since it is at this point that the Senate decides whether it is in favour of the principle of the bill, that is to say the bill's basic intent and objectives. By adopting a bill at second reading the Senate agrees with its basic principle and objectives, and subsequent changes must respect that decision. Amendments cannot be destructive of the bill's basic purpose, although the Senate does retain its right to reject a bill in whole at subsequent stages.

Related to this limitation are the ideas of scope and relevancy. While the three concepts are often raised together, they are distinct. A ruling of December 9, 2009 noted that:

"It may generally be helpful to view the principle as the intention underlying the bill. The scope of the bill would then be related to the parameters the bill sets in reaching any goals or objectives that it contains, or the general mechanisms it envisions to fulfil its intentions. Finally, relevancy takes into account how an amendment relates to the scope or principle of the bill under examination."

Page 141 of *Senate Procedure in Practice* notes that:

“Amendments must, therefore, be in some way related to the bill ..., and cannot introduce elements or factors alien to the proposed legislation or destructive to its original goals. In addition, amendments must respect the objectives of the bill.”

While these types of issues usually arise in relation to proceedings in committee, this analytical framework also applies to proceedings in the Senate, as was noted in a ruling of April 4, 2019.

Applying these ideas to the point of order, it seems that the basic objective or intention of Bill C-7 is to recognize and take account of a judicial determination that there exists a constitutional right to medical assistance in dying for persons whose death is not reasonably foreseeable. The bill thus proposes to expand access to medical assistance in dying, with a system of safeguards and eligibility criteria, so that this right is effectively available to such individuals. As outlined during the point of order, the amendment would undo this fundamental purpose of the bill. If the amendment were adopted, the bill would no longer address the decision of the court, and the law would continue to limit medical assistance in dying to those whose death is reasonably foreseeable. This effectively reverses the principle of the bill.

Since the amendment goes against the basic principle of the bill and does not reflect the decision made by the Senate at second reading, it is out of order, and debate on it cannot therefore continue.

Honourable senators, I will now ask Senator Ringuette to resume presiding over the sitting. Once again, I would like to thank you, colleagues, for your cooperation, and I wish you all well in our continued deliberations. Thank you very much.

## OFFSHORE HEALTH AND SAFETY ACT

### BILL TO AMEND—THIRD READING

**Hon. Mohamed-Iqbal Ravalia** moved third reading of Bill S-3, An Act to amend the Offshore Health and Safety Act, as amended.

He said: Honourable senators, I'm pleased to rise today to give a few closing remarks on Bill S-3, An Act to amend the Offshore Health and Safety Act. I want to begin by thanking Senator Massicotte and the Standing Senate Committee on Energy, the Environment and Natural Resources for their thorough consideration and observations, as well as the witnesses for their compelling testimony.

I would also like to thank Senator Wells for his invaluable contribution to this bill. As the sponsor of the original Offshore Health and Safety Act in 2014, as well as the former deputy CEO and board member of the Canada-Newfoundland and Labrador Offshore Petroleum Board, there is no one better suited to help us examine this bill.

Allow me to provide a very brief refresher to help frame the context of this bill. The original Offshore Health and Safety Act amended two provincial accord implementation acts and established a new occupational health and safety regime in Canada's Atlantic offshore areas. The act established new measures to prevent accidents and injury arising out of, linked to or occurring during employment in offshore petroleum-related activities.

For example, it clarified the role of both provincial and federal governments, as well as regulators, in preventing accidents and injury; outlined the safety roles played by everyone involved from owners, operators, employers, supervisors, employees to contractors; and added a new appeal process when someone is accused of violating rules. It also established and clarified employee rights, including the right to refuse dangerous work without the risk of facing reprisal.

While the 2014 Offshore Health and Safety Act was complex and broad in scope, the bill that is before us today is straightforward. Bill S-3, in its original form, proposes to extend the current transitional regulations, which expired at the end of the past year, for an additional two years, to December 31, 2022.

This extension is intended to help ensure that the governments of Newfoundland and Labrador, Nova Scotia and Canada have enough time to finalize the comprehensive permanent regulations that are currently being developed. These permanent regulations will ultimately replace the transitional regulations with a single, comprehensive offshore health and safety regulation that are tailored to the unique, and often dangerous, offshore working conditions.

• (1530)

Given that the current regulations have expired, clause 3 of this bill ensures that the extension of the transitional regulations will apply retroactively to January 1, 2021. In addition, although Bill S-3 falls under federal jurisdiction, both Newfoundland and Labrador and Nova Scotia have continued to have mirror provincial regulations in place, ensuring the continuation of protection for our offshore workers.

I recognize that the government has had five years plus an additional one-year extension to complete this task. As we heard during committee, developing these regulations has been an incredibly challenging process.

These regulations are very complex, totalling nearly 300 pages, with more than 100 domestic and international health and safety standards incorporated by reference. These regulations require vetting and approval by three separate governments, multiple ministries and two jointly managed regulatory boards, which, as you can imagine, can be extremely time consuming. There are also several other factors, including extensive consultations and engagements with stakeholders, as well as competing drafting priorities and, most recently, new challenges imposed by COVID-19.



I understand and can appreciate the disappointment that arises from needing this extension. As highlighted in committee, there is a need for the government to prioritize this legislation and, in effect, prioritize the health and safety of our offshore workers and their loved ones.

As Minister O'Regan and his department officials indicated during committee, there is a detailed implementation schedule in place to ensure that the Department of Justice and its provincial partners adhere to the December 31, 2022, deadline. This plan was shared with committee members.

The bill before us contains amendments proposed by Senator Wells that extend the transitional regulations to December 31, 2021. In the most practical sense, I hope that this tight timeline will not negatively impact the advent of the new bill.

As the minister outlined, there are still several outstanding steps to finalize the current regulations, including finalizing the draft regulations, sharing them with provincial partners and offshore boards, an internal review to be conducted by the Department of Justice to ensure consistencies within the regulations and legal framework, pre-publishing in the *Canada Gazette*, Part I and the final step of publication in *Canada Gazette*, Part II.

Honourable senators, passing this bill through the Senate is a priority, but it still needs to make its way through the other place and receive Royal Assent. The clock is already ticking. However, I am confident that Natural Resources Canada, the minister, the government and all parties involved are firmly committed to managing the regulatory development process closely and will adjust as needed to ensure all steps are completed by the end of the granted extension.

Bill S-3 is more than a piece of legislation; it involves protecting the health and safety of our offshore workers. Passing this bill will be one step in the right direction toward completing this crucial task and bolstering the state of Canada's offshore health and safety regulations. We owe this to the brave men and women who earn their livelihood in a hazardous and unpredictable environment. Thank you. *Meegwetich*.

**Hon. David M. Wells:** Honourable senators, thank you very much for the opportunity to speak on third reading of Bill S-3. I want to, again, thank the chairmanship of Senator Massicotte and, in fact, the whole committee for their thoughtful deliberation at committee and within the chamber at second reading. I also want to thank Senator Ravalia for shepherding this bill through. It is an important bill, as you know. I've spoken on it many times, both in the chamber and outside.

The 2014 bill was simply enabling legislation for regulations to be written. We don't make the regulations in the Senate. They don't make regulations in the other place. We simply enable officials and the government to create the regulations, and that is done through a process of consultation and gazetting. I will speak about that in a couple of minutes.

In the initial legislation, colleagues, you will recall, that five years were given. That was extended by one year in the Budget Implementation Act, 2018, No. 2. Bill S-3 attempts to grant two additional years to that program to December 31, 2022.

It is coincidental to be addressing this at this time. Yesterday, all of Newfoundland and Labrador quite publicly commemorated the thirty-ninth anniversary of the sinking of the *Ocean Ranger* and the loss of 84 lives and, very soon, in early March, we will be remembering the *Cougar* Flight 491 where 17 people lost their lives. This is important, not just for Newfoundland and Labrador, not just for the workers in the offshore, but for all of Canada. It should be commemorated in that light.

At committee we heard from the operators. The operators are the large companies that operate in the offshore, companies like ExxonMobil, Husky, Suncor, Chevron, the large operators as represented by CAPP, the Canadian Association of Petroleum Producers. Colleagues, we also heard from Noia, which is the oil and gas association based in St. John's, Newfoundland and Labrador, but really with membership across Canada. It is the largest oil and gas industry association in Canada. We also heard from Unifor, the union that represents many of the offshore workers. We heard from individual companies that deal in safety on a daily basis. And we heard from Cougar Helicopters, who had an excellent presentation and let us know how the important permanent regulations are to the helicopter sector of the offshore business.

We know, colleagues, that it can be done in less than a year. And we say why? Because the officials and the minister told us it could. The minister specifically said at our February 9 committee meeting that they had, and I'm reading from the text from the committee meeting last week:

... we were scheduled to start full-day, in-person drafting sessions the week of March 23 last year, then the pandemic hit us.

So we know that the department had at least nine months to get this done, to December 31. We now have those nine months plus five weeks — it being mid-February — under that timeframe.

The minister also said that one of the reasons for the delay, aside from COVID-19, which obviously had an impact and some delay in 2020, but had no impact on the delays beginning in 2014 up to the beginning of 2020.

We know, colleagues, also that the drafting is complete. Mr. Gardiner, from Natural Resources Canada said in his testimony at committee last Tuesday, February 9:

... I can confirm we do have a full-draft regulation. This is not the first consultation. As the minister and Glenn have pointed out, there have been extensive consultations on policy intent in five different stages between 2016 and 2018.

So, colleagues, we know it can be done in the time given.

• (1540)

I reference a comment made by Senator Patterson in committee. He gave an excellent quote from Cyril Northcote Parkinson: “Work expands so as to fill the time available for its completion.”

I think that’s what has happened here. When I look at the legislation from 2014, we gave five years to get this done. If you give anyone five years to get something done, I find that they don’t start looking at getting it done until year four, and I’m afraid that’s what happened in this case.

The items that could cause further delay — but I am assured won’t cause further delay — are the consultation and gazetting process. We were told by one of the officials that the regulations have been drafted. The gazetting process, as per the default that was in the 2014 legislation, is 30 days; 30 days for industry to respond to the draft regulations that the department puts out.

We know because we heard testimony from both CAPP, Dr. LeDez, Noia and Unifor that they can turn around their comments within the 30-day gazetting requirement.

The only thing that requires greater consultation in gazetting is a 75-day period for international trade agreements and if there is another order from the President of the Treasury Board. So the default is 30 days and all parties have accepted that this is what it will take. Colleagues, this is routine. This draft is complete and the officials told us so.

Minister O’Regan said the time delay, as I mentioned earlier, was due to consensus decision making and Canadian federalism. This is not about Canadian federalism. This is about safety in the workplace. This is an easy one.

I recall Senator Simons’ comments in the committee about perfect being the enemy of good. Senator Simons would know, as a journalist and a writer, that you can tweak forever to try to make it perfect, but getting it out the door is critical.

The other thing, colleagues, with this legislation and the regulations that came under the 2014 bill, we don’t write the regulations. We give the enabling legislation. Regulations can be changed at any time in the future with a gazetting process and consultations. So that’s an important consideration to make. This is not the endpoint. This is only the beginning point.

I’d like to spend a moment talking about the observations we made at the committee. There were three amendments, and it was all-encompassing under one amendment, and that’s to reduce the timeline to get this done from two years to one year — or, in fact, increase the timeline for the transitional regulations that were put in place by an additional year — six years to seven years — which would end at the end of this current year, on December 31, 2021.

Colleagues, I would like to talk about the observations made and I want to especially thank Senators McCallum and Galvez for assisting me in putting these observations together. They were important. We were tasked with doing it and presenting it to steering, which we did.

The first observation, colleagues, is that the committee is concerned that deferring the adoption of permanent offshore health and safety regulations is delaying necessary changes. The committee is of the opinion Bill S-3 should represent the final extension of the deadline to adopt permanent health and safety regulations for Canada’s offshore.

Further, the Natural Resources Canada must submit an implementation progress report to the Senate by June 15, 2021, including the implementation schedule to the expiry of the transitional regulations.

Colleagues, this observation is obvious. The intent is to ensure that there is oversight in the work that needs to proceed. We can do that through the Standing Senate Committee on Energy, the Environment and Natural Resources or we can do it through the Senate itself.

Observation number two was spearheaded by Senator McCallum, and I appreciate her efforts on this. The committee is of the opinion that the regulations should ensure safeguards and best practices are upheld and maintained by all, subject to the regulations with regard to health and safety and regardless of one’s age, race, religion, gender, sexuality, et cetera.

Honourable senators, I think the observations complete very well the work that the committee has done. If this passes third reading as amended, as the committee had recommended, we will all be keenly watching if the other place agrees that this should get done as soon as possible.

Colleagues, I mentioned some of the presentations that were made at committee and I want to finish with this. Last week, the day after our February 9 committee meeting and the day before our February 11 committee meeting, committee members were sent a submission by Robert Decker in French and in English. Robert Decker, you will recall from my second reading speech, was the lone survivor of Cougar Flight 491, which went down in the Atlantic Ocean in March 2009.

I want to read one line from Mr. Decker’s submission. And as you will recall, I know Mr. Decker, and he does not speak publicly about this but he was driven to at this juncture. I will just read one section from his submission:

... I would like to add my voice that as a victim of a failure of safety in the offshore, that five years in the initial 2014 legislation seemed like a long time for something everybody agreed on. The one year delay granted in 2018 flew under the radar but was accepted because there appeared to be forward movement.

Now, a further delay in implementing these health and safety regulations to January 2023 gives the strong indication that those charged with the legislative oversight of safety in the offshore have not learned and don’t care. Senators, I urge you to press the government to do what was promised and to not let the excuses of Ottawa further impact the safety in our workplaces.

Colleagues, nothing more needs to be said. Let's get this done. Thank you.

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senators, I want to thank the sponsor, the critic and members of the committee for their hard work. We believe that it is important that this bill get to the other place. The health and safety of our precious workers are at stake.

I simply want to register the government's reservations about the shortened timeline that the amendment has introduced. We will be voting for this bill, but we remain concerned that no shortcuts should be taken in the development and in the proper consultation with all stakeholders in the development of these regulations. With that, we are ready for the vote.

**The Hon. the Speaker pro tempore:** On debate, Senator Galvez.

**Hon. Rosa Galvez:** Honourable senators, I rise to speak to Bill S-3, An Act to amend the Offshore Health and Safety Act, which seeks to reinstate transitional regulations while permanent regulations are being finalized. The initial legislation passed in 2014 gave five years for the development of these regulations and this period was extended by one year in 2018 up to 2020.

There is currently a federal regulatory gap in the offshore occupational health and safety regime which Bill S-3 attempts to address.

Colleagues, oil and gas production is dangerous work. Oil-and-gas-producing provinces have much higher workplace injury rates than other provinces. Newfoundland in particular has the highest rate by far of occupational disease fatality in Canada. According to the U.S. government, a worker in oil rigs is seven times more likely to die on the job than the average American worker.

As Husky Energy put in 2012:

The Grand Banks region has a harsh environment . . .

. . . icebergs are a common occurrence. . . . Icebergs up to 5,900,000 tonnes have been observed in the area. . . .

The quote continues:

Winter storms are considerably more intense and frequent than those in the summer. The associated winds reach gale force several times in a typical year, and sometimes attain hurricane force.

When a big storm is forecasted, operators cap the well and staff are usually evacuated via helicopter, or so we hope. When the Ocean Ranger drilling rig off Newfoundland capsized in a storm in 1982, as was mentioned before, all 84 workers on board died. In 2009, a helicopter ferrying workers to an oil rig crashed in the Atlantic Ocean, killing 17 people.

Things are not going to get any safer with climate change impacts. With increasing temperatures, we can expect more icebergs and worker exposure to more extreme weather events. Higher winds and more hurricanes can affect the structural integrity of platforms, and ocean acidification wears down steel and concrete infrastructures. Sea level rise, storm surges and bigger waves can inundate the decks and affect tie-down components. Higher water levels, stronger winds and waves can result in the overturning and total failure of offshore structures and platforms.

• (1550)

[Translation]

In 2005, Hurricanes Katrina and Rita devastated the Gulf of Mexico, destroying 116 platforms and causing 150 others to be removed in the year and a half that followed.

We cannot and must not forget the 2010 Deepwater Horizon disaster, the largest oil spill in U.S. history, which killed 11 people, injured 17 and caused \$17.8 billion U.S. in damage. A judge later found that BP had acted with gross negligence. In 2013, BP pleaded guilty to manslaughter and paid \$4 billion in fines.

It's worth noting that BP holds an interest in nine exploration licences in Newfoundland's offshore oil region.

[English]

In April 2015, the U.S. Department of the Interior Bureau of Safety and Environmental Enforcement proposed a set of complex and highly technical regulations that impose expansive new requirements on offshore oil and gas drilling following the Deepwater Horizon tragedy. The new requirements called for far-reaching changes to the rules by which the oil and gas operators are governed and would increase costs in a manner that will severely impact Gulf Coast economies. I suggested hearing from health and safety experts from the U.S. offshore to understand how Canada's current transitional offshore regulations compare. Unfortunately, none testified before our Energy Committee.

It has also been very hard for me and my team to find information about the cost of compliance with rigorous health and safety standards such as those. A rare study by Wood Mackenzie cited in a 2016 article on the safety rule changes found that under an assumption of \$80 per barrel of oil, the modified rules would decrease exploration drilling by up to 55%.

To my surprise, unlike the U.S. oil industry, representatives of the Canadian oil industry seemed totally unconcerned with costs — it could be good news — despite a much lower price of oil these days. The Canadian Association of Petroleum Producers does not expect major changes with permanent regulations or additional costs to bear. CAPP told the Energy Committee, "With respect to cost, that doesn't come up in our discussions." And again, "When it comes to cost considerations, that's not really a factor in our discussions or in our review of new regulations." And later, "Cost doesn't come into the equation."

This was echoed by Ms. Johnson of the Newfoundland & Labrador Oil & Gas Industries Association who said, “cost has not come up in any conversations that we’ve had with our members. I’ve been CEO for three years here at Noia . . .” And, “Cost hasn’t been an issue.”

However, as you are all aware, the oil and gas sector doesn’t shy away from government handouts. Last September, the federal government handed over \$320 million to the Newfoundland government for the offshore industry, with the only caveat being that it be used to support workers and reduce carbon emissions. Ms. Johnson said at the time, “To say that we’re pleased to see hundreds of millions of dollars come with virtually no strings attached, that is good news.” And to continue, “It’s always been about ensuring our industry is globally competitive.”

Our Energy Committee could not get any acceptable justification for why permanent regulations are still not in place despite six years of development. There were allusions, as mentioned, to “consensus decision making under Canadian federalism,” a factor which did not stop or slow the federal government from going forward at full speed on regulatory developments to favour the offshore oil industry. Indeed, as we were still studying Bill C-69 in the Senate, the government proposed to exempt offshore exploratory wells from review through a rushed regional assessment and completed the whole regulatory process in just over a year. While the assessment was getting underway, Minister O’Regan reassured the industry about its consequences. He told them, “Exploratory wells will not be on the projects list once a regional assessment has been completed — full stop.” However, the regional assessment report stated the “abbreviated time” given for the study was a key challenge and concluded in their report:

Assessing and evaluating risk was beyond the timing and resources available to the Committee, but remains a fundamental requirement to guide future decision-making around sustainable use of offshore resources.

The report did not assess cumulative impacts to the local ecology or for an area of ocean larger than the province of Alberta or on climate change. Despite this, the government stated its regulatory intention to exempt exploration from the brand-new Impact Assessment Act four days after receiving the report. Final regulations were adopted despite a court challenge.

We know the risks of offshore drilling exist. In 2018, we saw the largest oil spill in Newfoundland offshore drilling history: a leak which sent 250,000 litres of crude oil into the Atlantic Ocean. In 2019, an oil spill from Hibernia produced two oil slicks that were each over 3 km long. In 2020, there were two “unauthorized discharges” and two fires.

When I asked Minister O’Regan how the government is able to complete the full regulatory cycle over complex issues in just over a year when it is favourable to the industry, but then needs more than six years to develop the regulations to protect the industry’s workers, I was told that the exemption for exploratory wells “was the number one priority.” “Time is money,” he told me.

[ Senator Galvez ]

[Translation]

Delays resulting from COVID-19 was the other reason given, but again, COVID-19 did not stop three new exploration projects off the coast of Newfoundland from being approved a month ago.

At the end of the day, our committee did not receive any clear or acceptable justification for the long delay in implementing measures to ensure the health and safety of offshore workers. The committee amended Bill S-3 to grant an extension to the end of 2021, a year sooner than the government requested. We also believe that this should be the final extension of the deadline to adopt permanent offshore health and safety regulations, and we are calling for the Department of Natural Resources to submit a progress report to the Senate.

[English]

Colleagues, for all I have explained and for the above reasons, I urge you to adopt Bill S-3 as unanimously amended by the committee so as to afford offshore workers who put their lives at risk the permanent protection they deserve and is already much overdue.

Thank you. *Meegwetch.*

**Some Hon. Senators:** Hear, hear.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill, as amended, read third time and passed.)

• (1600)

## BUSINESS OF THE SENATE

**The Hon. the Speaker pro tempore:** Honourable senators, the Senate has concluded the thematic debate on Bill C-7. Today we will start the final general debate on the bill. Senators will have their normal speaking time during this debate and amendments cannot be moved. If there is a vote on any issue relating to the bill, the bell will ring for 15 minutes, but any whip or liaison can extend the bell to 30 minutes. However, for the final vote on third reading, those times are 30 minutes and 60 minutes respectively.

[Translation]

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Petitcher, seconded by the Honourable Senator Gold, P.C., for the third reading of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying), as amended.

**Hon. Chantal Petitcher:** Honourable senators, it is with much emotion that I rise to speak today in support of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying).

It was almost five years ago that we took a stand on respect for the right of an individual in intolerable suffering whose death is imminent to end their life on their own terms.

Today, we are preparing to take respect for this right one step further by extending it to those who are not near death, but whose suffering is just as intolerable. We are doing so prudently and conscientiously, as we should. The death of a human being, whether natural, accidental or by choice, should never be an insignificant act. This has been borne out by the tenor of our debates, and I want to thank you, esteemed colleagues, for the rigour, compassion and respect you have shown.

It is a privilege to be part of this process, which of course comes with great responsibility.

This responsibility is not lost on me as we prepare to vote at third reading on Bill C-7.

This bill, a response to the ruling in the Truchon and Gladu case, is an approach that respects the right to autonomy while proposing robust safeguards. This bill clearly reflects what we heard from Canadians during the consultations. The bill expands access to medical assistance in dying, which 71% of the Canadians surveyed in January 2020 supported, but we recognize that we must move forward with caution.

We have also seen the need for caution in our work. Although there was undeniably support for expanding access to MAID in our debates, especially in committee, some witnesses and senators expressed concerns, fears and reservations.

As we prepare to vote, I urge all senators to reflect on what this legislation does.

As Bill C-7 takes us in one direction, we must not forget that we have more than four years of experience behind us and that the courts, in both *Carter* and *Truchon*, recognized this individual right that must be respected. The various steps in this process also assure us that protecting anyone who may be vulnerable will be taken seriously and be given the utmost consideration.

[English]

Allow me to take a moment and have a look at the process step-by-step.

First of all, in order to obtain MAID, a person whose natural death is not reasonably foreseeable would need to be assessed by a medical practitioner or nurse practitioner. The practitioner would meet the person and would have to be satisfied that this person meets the eligibility criteria for MAID. Questions would be asked: Is this person at least 18 years of age? Is this person capable of making decisions respecting their health? Does this person have a grievous and irremediable medical condition? It does not necessarily have to be a disability, of course. It can be a disease, illness or disability, but it does have to be grievous and irremediable.

Then the practitioner must determine if this person is in an advanced state of irreversible decline in capability. And also, does that person suffer intolerable, enduring physical or psychological suffering, the kind of suffering that cannot be relieved under conditions that they consider acceptable?

When we take this into consideration, it's fair to say that only the individuals in very specific and painful conditions will respond to those criteria, but the bill calls for even more caution. The practitioner has a professional obligation to be satisfied that the person has requested MAID voluntarily, not as a result of external pressure. They have to make sure that there was no pressure. This is very important, and we all agree on it.

After that, the practitioner would have to ensure that another medical practitioner or nurse practitioner, who is independent from the first practitioner, has provided a written opinion confirming that the person meets the initial criteria.

But this is not all. Because this person's natural death is not reasonably foreseeable, the additional safeguards in Bill C-7 would apply. Specifically, the minimum 90-day assessment period will help ensure practitioners spend sufficient proper time exploring the various dimensions of the person's MAID request, which, outside of the end-of-life context, could be motivated by different sources of suffering requiring greater attention.

Second, at least one of the practitioners assessing eligibility must have expertise in the condition causing the person's intolerable suffering. This safeguard aims to prevent people from obtaining MAID when something could have been done to relieve their suffering or improve their condition.

The bill would also clarify the notion of informed consent for these kinds of cases.

First, the person who is not dying would have to be informed of means available to relieve their suffering, including counselling services, mental health and disability support services, community services and palliative care, and be offered consultations with the professionals who provide those services.

Second, the practitioners and the person would have to agree that these means of relieving their suffering were discussed and seriously considered.

Honourable senators, I wanted us to once more go through the process that would allow access to MAID. I believe it is important that we keep all of these steps in mind and that we acknowledge how thorough, strict and safe this process is. It has been implied that access would be easy or unmonitored. That simply is not the case.

Honourable senators, this bill is ultimately about striking a balance. I do believe this bill is a compassionate response that protects vulnerable people and respects their dignity, autonomy and what is required by the constitution.

The process is clear and offers safeguards the way it is intended.

Behind this very clear and thorough process, as you can imagine, there are individuals: professional and committed ones. They, at all steps of this human experience, will accompany the men and women who will make that choice to seek medical assistance in dying, and I want to thank them sincerely.

My support for the bill has been there since it was tabled, since I read the *Truchon and Gladu* decision. But the committee witnesses from the medical profession have made me confident that those individuals making that choice for themselves are in good hands. They will go through that process with competent and compassionate professionals. In our hearings, we certainly heard questions and some hesitation, but we mostly heard that our practitioners know what they are doing and know that the mechanisms in place are very solid.

• (1610)

The Legal Affairs Committee heard testimony from several medical organizations that I can name: The Canadian Association of MAiD Assessors and Providers, the Federation of Medical Regulatory Authorities of Canada, the College of Family Physicians of Canada, the Royal College of Physicians and Surgeons of Canada and the Canadian Nurses Association. Although they are aware of the challenges in implementing certain safeguard measures, the consistency of the positions of these health practitioners and health-practice regulatory bodies is that they will be ready to implement the proposed changes to the legislation, if passed by Parliament.

[Translation]

Dr. Alain Naud is a family physician who has been working in palliative care for 35 years. He is also a clinical professor at Université Laval.

He has personally assessed and assisted over 100 people who received medical assistance in dying. He said, and I quote:

You have to understand that medical assistance in dying is a very rigorous process that involves an entire team of caregivers, not just two physicians. Nurses, patient

attendants and social workers are involved. One of the measures currently in force is that you must ensure the request is made freely and is informed, without outside constraint. This entire process — and this entire team of caregivers, which guarantees a rigorous process — also guarantees that there is no such constraint.

[English]

This robustness of the process was also mentioned to us in early February by two other witnesses, themselves MAID providers and assessors. I want to quote Timothy Holland, a MAID physician:

Let me be clear. A MAID assessment is no trifle affair. In order to perform a MAID assessment, we must have full knowledge of a patient's comprehensive medical status. We must perform a robust capacity assessment. We must ensure the patient fully understands all options available to them so that we can be sure the patient is making a truly informed decision. And we must also understand who that patient is as a human being and understand the values that have guided their life. Only then can we truly assess if they meet the criteria for MAID and feel confident that this is truly the patient's own decision, free of coercion.

Then he continued:

When we do meet with the patient, we spend time to understand how they've experienced their journey through their illness. We invite the patient to bring any loved ones to the assessment so we can take the time to speak to these loved ones and place the patient within the context of their family and network of care.

[Translation]

Being familiar with the bill, the criteria and the safeguards is one thing, but listening to someone like nurse practitioner Julie Campbell explain how the procedure works reassures us of the human side of this end-of-life care and proves to us that it is provided with respect and dignity. I want to share the following quote with you.

[English]

Each MAID assessment requires the individualized, thoughtful approach of a skilled assessor. . . . Before each assessment, I do a thorough review of each patient's medical conditions, previous treatments and outcomes, consultation notes and any other relevant documents. I speak to other team members, and then I sit down and I spend time with my patient. I get to know them. I ask them about what's important to them, about who is important to them and about how they would like their death to be. I carefully explain the assessment process, the provision of MAID and what they and their family should expect. I explain the role of the coroner and all of their options, including but not limited to palliative care. If I feel at all uncertain, I make another appointment and see them again.

[Translation]

These health care professionals' enlightening and reassuring remarks are no different from what our doctor colleagues told us in their own speeches. I would like to acknowledge the individual and collective contributions of Senators Mégie, Moodie, Kutcher and Ravalia. Their enlightening comments contributed a great deal to the quality of our discussions.

Like many of us, I was moved, devastated and reassured by Albert Gretzky's testimony about his wife's choice to end her life on her own terms. He very tenderly shared his wife Marilyn's last moments with us. I quote:

[English]

The procedure was at 2 o'clock. Beginning at 10 o'clock, each member of the family went into the front room where Marilyn waited, closed the door and privately shared the time they needed. For her part, Marilyn had an envelope for each of them. Among the items in those envelopes were their birthday and Christmas wishes for the next two years. She was always thinking of her family. Together we then went outside, and on that bright and sunny day in the shade of a giant maple, we laughed, talked and took pictures until it was time. There was one more round of long hugs, kisses and a smiling Marilyn went inside. Her heartfelt wish was that when the family thought of Marilyn, they would see her smiling and smile themselves, rather than bear an unhappy memory like the one she carried of her mother. MAID made that wish come true.

[Translation]

Honourable senators, I hope that these stories — and there were many more, as you know — helped highlight the fact that medical assistance in dying exists in a sensitive, professional environment. Beyond the rigorous approach, the criteria and the safeguards, there are dedicated individuals prepared to support individuals who make this very personal choice to exercise their right to die with dignity.

[English]

Many of you, honourable senators, have referred to how you value and took consideration of the lived experiences or lived expertise that you have heard. Before I conclude, I would like to submit to you another lived experience for your consideration.

This coming summer, it will be 38 years since the day I had my accident. The study of this bill keeps bringing me back to the little girl that I was, lying on the ground, unable to feel my legs and unable to get up. I knew from that moment that my life would never be the same again and that I would need to adjust to that new reality very quickly. It reminds me of my mom, just divorced a year before my accident, a low-wage worker with three kids, my little brother not even two years old, me in a wheelchair, and her having to carry me up and down to the second floor of our apartment building because we could not afford to move. I may be privileged to be here in the Senate of Canada, but I never forget where I came from, and I know exactly what it is to be in a situation of extreme vulnerability.

• (1620)

The strong memory that the study of Bill C-7 brings back to me is one of being in pain for days and weeks. I talked about this when I spoke in support of Bill C-14. I told you about being at the hospital for weeks and having to endure unbearable pain that would only get worse every time the nurse had to come into the room to turn me on my side to avoid pressure sores.

Weeks after we adopted Bill C-14, I received a letter from a nurse at Hôpital de l'Enfant-Jésus in Quebec. She had heard my speech and wanted to tell me that she, too, remembered. She told me about standing behind my door, knowing that she had to do what she had to do to care for me, and taking a deep breath before opening the door. Her compassion was so touching, and reminds me of the human compassion we heard throughout our hearings.

I remember saying in 2016, when I spoke on Bill C-14, that if I ever knew a pain that unbearable would be irremediable, I too would fight for the right to decide. I feel exactly the same today, maybe even more strongly.

In our discussion, we spent a considerable time speaking about fears and concerns but also about rights, dignity and compassion.

In conclusion, I want us to hear the voice of Julia Lamb once more:

Bill C-7 is hope for so many. It must uphold compassion and choice. The pillars of the *Carter* decision, the human rights of Canadians with incurable, grievous illness and intolerable suffering, matter and should be reflected in this legislation that was ordered to improve on the previous bill that got it wrong. It now must get it right for all of us who were left out.

Today when I rise to support Bill C-7, I will vote in support of Julia, Nicole and Jean. I will vote in support of the right to dignity, compassion and respect. I hope, honourable colleagues, that you will join me. Thank you.

**Hon. Lucie Moncion (The Hon. the Acting Speaker):** Senator Batters has a question.

[Translation]

Senator Petitclerc, would you take a question?

**Senator Petitclerc:** I'd be happy to.

[English]

**Hon. Denise Batters:** Senator Petitclerc, since the assessment period for those not near death is only 90 days, what happens when someone considering MAID, who is advised of potential mental health care options, cannot get an appointment with a psychiatrist for many months past that 90-day period? Unfortunately, this is the situation now in many places across Canada. Should the MAID assessor in that situation refuse to approve assisted suicide until the patient is finally able to get mental health care?

[Translation]

**Senator Petitclerc:** Thank you very much, Senator Batters. As you can see, the bill clearly states that the 90-day assessment period is a minimum. It's important to focus on the fact that the bill asks us to ensure that this assessment is completed within a minimum period of 90 days.

[English]

**Senator Batters:** So it would be your impression, then, that the MAID assessor should refuse to approve that person's assisted suicide until they are able to receive the mental health care that they have been advised about?

[Translation]

**Senator Petitclerc:** As I said in my speech, I think we can all agree that the assessment process must be sensitive and rigorous. It must take into consideration the individual who is at the centre of this decision. If the assessment requires more than 90 days, as much time as needed should be taken beyond the 90 days. Our health care professionals have a responsibility and a professional obligation to conduct the assessments properly.

[English]

**Senator Batters:** Would Senator Petitclerc take another question?

[Translation]

**Senator Petitclerc:** Absolutely.

[English]

**Senator Batters:** Thank you. You referred to one of the witnesses we heard from at the Legal Committee recounting his particular experience with his wife's assisted suicide. When I was listening to that, it made me recall the significant document that all senators received from Dr. John Maher, a psychiatrist, this past weekend, about different myths regarding MAID, especially where mental illness is involved but also in other types of situations. Dr. Maher said:

Some people extrapolate from the beautiful stories about warm goodbyes with MAID for terminal illness to acclaim that the same will hold true outside the terminal context. On the contrary; the Swiss, Belgian and Dutch experience shows the non-terminal context is fraught with distress. Families don't support the death, families will not participate, families initiate legal action, families still have hope of recovery, families feel abandoned, family members are traumatized, including PTSD.

Senator Petitclerc, how do you respond to his reaction to that?

[Translation]

**Senator Petitclerc:** Thank you very much, senator. You attended every committee meeting, and I thank you. I have a lot of respect for the work that you do on this file. I also attended every committee meeting. We all read the documentation, and we know that this did happen. However, as I pointed out in my speech, the vast majority of witnesses showed us that health care professionals are well trained and competent. Quebec's experience also proves that we can have confidence in this process.

I will respond in light of what I read, what I studied and the considerable time I devoted to this cause. I can assure you that I have done my homework, and I am confident that Bill C-7 will give this right to the individuals who choose to avail themselves of it, while protecting those who, for one reason or another, might be in a vulnerable situation.

**Hon. Claude Carignan:** Honourable senators, I would first like to take this opportunity to pay tribute to the bill's sponsor. It is always inspiring to listen to her tell part of her story. I believe that Senator Petitclerc is an inspiration to many people in Canada. She truly sets an incredible example of how to live. She has shown that it is possible to accomplish great things even in the face of adversity. For other individuals who have had an accident, she is an extremely inspiring role model. Thank you, Senator Petitclerc, for this story.

Esteemed colleagues, I rise today, I hope for the last time, to speak to Bill C-7. This bill is very different from most of the others we have studied in this chamber. This bill is different because it has to do with a fundamental part of life, which is death. A witness told us that death is part of life, since life for him is one long degenerative disease.

• (1630)

When we are talking about death, it is only natural for our own values to come into play and influence our analysis. That is a very human response, and I think we do need to take a human approach to studying Bill C-7. We need to avoid partisanship as much as possible and view this bill as a way to provide solace to Canadians. However, in spite of the amendments we adopted last week, this solace is flawed, which I find disappointing.

I am bringing up the notion of solace because a lot of the witnesses we heard from spoke about suffering and about hope. What makes medical assistance in dying unique is that individuals are choosing how and when to die.

The Standing Senate Committee on Legal and Constitutional Affairs began examining Bill C-7 last fall. First, it conducted a pre-study in which more than 80 witnesses shared their experiences and opinions on medical assistance in dying and on the issues surrounding Bill C-7. Then, in the first week of February, the committee heard from another 64 witnesses. I want to acknowledge the quality and generosity of the witnesses who appeared before the committee. Whether they were ordinary



Canadians, eminent legal experts, leading university professors, general practitioners or psychiatrists, I was moved by their transparency and the strength of their convictions.

I also want to acknowledge the excellent work of my colleagues who participated in the study of Bill C-7. Their attentiveness, the relevance of their questions and the deep respect they showed for the witnesses do them credit and enhance the Senate's image and prestige.

A lot came out of our study of Bill C-7. At the very least, this study enabled us to bring to light a number of flaws in this bill. We were thorough and methodical in our study of the bill at third reading in the Senate.

We can all be proud of our conscientious work to improve this bill. Last week, we adopted measured, balanced amendments. I'm so impressed by the wisdom that characterized our debates. It's in moments like these that we understand the true purpose of a chamber of sober second thought, and I hope the government will recognize how thoughtful our approach was. It would be sad to go through a repeat of what happened with Bill C-14, when the Senate detected and fixed a serious flaw, only to see the government reject the proposed amendment. I hope that this time, the government will be more humble and will appreciate the merits of the improvements we want to make to Bill C-7.

However, we have a problem, honourable senators. Despite the carefully considered and important corrections we made to Bill C-7, I think it is still unconstitutional.

If I may, I'll use the example of the sunset clause introduced by Senator Kutcher, which passed with a strong majority. The amendment seeks to limit the unconstitutional scope of clause 1(2) of the bill, which excludes mental illness as a sole underlying condition for a MAID request. Adding an 18-month sunset clause means this exclusion will eventually disappear, unless the government decides otherwise and introduces new legislation with the same objective.

Although Senator Kutcher's amendment is a temporary solution to address this provision of the bill, it does not eliminate the discriminatory effects of that provision, which is why I strongly believe that if this bill passes, with or without the sunset clause amendment, it will be successfully challenged in the courts.

Nevertheless, I do believe that adding this sunset clause to the mental illness exclusion was the right thing to do. If we had simply repealed this section — which I believe was really the right thing to do — I'm sure the government would have rejected that amendment. By including the sunset clause, we have struck a balance between everyone's rights and obligations by giving the government 18 months. Let's hope the government seizes this reasonable opportunity.

In fact, Minister Lametti opened that door himself when he told the committee, and I quote:

We do anticipate that it will be a temporary prohibition. We've received the same evidence as you, but we also have other evidence and other opinions from experts who have said it is still very difficult to assess mental health cases.

Jean-Pierre Ménard, the lawyer representing Mr. Truchon, one of the two plaintiffs in the case that led to the removal of the reasonably foreseeable death criterion, was clear on this issue before the committee, saying, and I quote:

Reading the preamble to the bill, it was clear that this was going to be studied further, except that in the legislation there is a contradiction with the preamble. Mental illness [for every person who has it] is excluded outright and for an indefinite period of time. There is an incongruity here as well. The legislation cannot be passed as it is written now. It is an additional constraint for these people. This constraint is not justifiable and is not justified by the *Carter* ruling nor by the *Truchon* ruling in particular. When we look at the text of the bill proposed to us, we do not agree with that. The text of the bill is far too broad and far too imprecise, and it opens the door to a constitutional challenge.

Our former colleague, Senator Joyal, testified with conviction and clarity before the Legal and Constitutional Affairs Committee. With the same eloquence that he displayed in June 2016 when he proved to us that Bill C-14 was unconstitutional, Senator Joyal made these enlightening comments, and I quote:

However, the case law is extremely clear: if you want to deny a person the right of access to MAID or any other Charter right, you must show that the limit is demonstrably justified in a free and democratic society. But nothing in the bill shows that the government has conducted that exercise or can demonstrate, or would be able to demonstrate before a court, that it can justifiably withdraw the right to access to medical assistance in dying from persons suffering from mental illness.

To conclude, Senator Joyal drew our attention to these important elements. He stated the following:

It is crucial to remember that the right to access MAID is first and foremost recognized and protected by section 7 of the Charter, as interpreted by the Supreme Court in *Carter*, and that specific conditions must be met in order to prevent a person from exercising this right. This is to avoid arbitrariness and satisfy the public interest by ensuring that the right is exercised without undue constraint. There is, however, nothing in Bill C-7 that specifies the reasons for this exclusion that might be acceptable in a free and democratic society under section 1 of the Charter. Neither the preamble nor the body of Bill C-7 includes a reference to any of the four elements of the Oakes Test established by the Supreme Court to justify a limit on a Charter right under section 1.

Honourable senators, that is especially troubling. In *Truchon*, the court ruled that the reasonably foreseeable death criterion for accessing MAID was unconstitutional. That is why the government introduced Bill C-7, to comply with that ruling, but what is the government doing in this bill? It is simply proposing to use the reasonably foreseeable death criterion to create two tracks for accessing MAID, or two categories of patients who do not have quite the same rights under the law.

There will be people whose death is reasonably foreseeable. They will not have to wait once their request has been accepted, and they will have the option of signing a waiver of final consent before the procedure is administered. Incidentally, I applaud these two new provisions. Then, there will be people whose death is not reasonably foreseeable. They will have to wait at least 90 days from the start of the assessment of their MAID request before the procedure can be administered.

I am convinced that this discriminatory disparity will not hold up in court. I remind you, honourable senators, that one of our constitutional roles is to ensure that bills are constitutional. Logically, if we are sure that a bill is unconstitutional, then we need to either amend it or vote it down. That is our duty.

• (1640)

Senator Wallin proposed an amendment to enable individuals whose death is not reasonably foreseeable to waive final consent as well. A majority of senators supported that amendment. The purpose of the amendment is to enable people with neurodegenerative health problems to decide when they want to die before they lose the capacity to make that decision. If the government accepts this amendment, it will be up to the provinces and professional associations to regulate this new practice. It will not be up to the federal government to do so by amending the Criminal Code.

In my opinion, Bill C-7 goes much too far with its safeguards, blithely interfering in areas under provincial jurisdiction: health, property and civil law.

I think imposing a 90-day waiting period on patients whose death is not reasonably foreseeable is cruel and unusual treatment that violates section 12 of the Canadian Charter of Rights and Freedoms.

On that subject, Mr. Ménard eloquently explained his stance in the brief he submitted to the House of Commons Standing Committee on Justice and Human Rights on November 5, 2020.

In his brief, he said that the 90-day waiting period, if adopted,

. . . would force a category of competent adults experiencing constant and intolerable suffering, who would otherwise be eligible for MAID, to go through a significant additional period of time (90 clear days) during which they will continue to endure constant and intolerable suffering under conditions they consider to be an indignity.

Esteemed colleagues, I have a friend whose 88-year-old father just went through a MAID process. In his case, he had to wait 10 days between the request and the procedure. My friend told me that the first day is fine. This is the time to make final

arrangements and say one's goodbyes before the final adieu. However, the more time passes, the harder waiting becomes for the individual who requested MAID and for their loved ones. It means living each day while anticipating death. I can easily imagine the psychological and emotional burden and the toll it takes, but I am still not prepared to insist that we, as a society, impose a 90-day period on patients and their families. I think that is profoundly inhuman.

On that subject, David Roberge of the Canadian Bar Association issued this warning:

Lastly, Bill C-7 provides that the waiver of final consent to medical assistance in dying applies only if death is reasonably foreseeable. It is our view that the waiver of consent should apply whether death is reasonably foreseeable or not, since in both situations it is possible to lose capacity to consent.

On another note, Bill C-14 provided that a parliamentary committee would study the whole issue surrounding mental illness, issues related to advance requests and the unique situation of mature minors. That committee was supposed to begin its work in June 2020, but nothing has been done yet. There was a lot of concern from witnesses and senators about the fact that this work has not yet been undertaken. Many of the questions raised in committee and during debate at third reading stage would normally have been further studied through this parliamentary review. The government dragged its feet, and now we are suffering the consequences.

Minister Lametti promised to work very hard to have his government start on this quickly. Leader of the Government, I believe that many of us will ask you to report on the progress of this work. We have been able to see how important it is and how the delay caused by the government's slow response is having a real impact on the quality of Canadians' end-of-life experience. I also urge the federal government to work closely with the provinces, territories and professional associations. For example, Quebec has been a leader in this debate, as the Association des médecins psychiatres du Québec launched a study of mental illness and MAID over a year ago and presented its findings in November 2020.

To summarize, Quebec's psychiatrists support MAID for persons with mental health issues, and they have established a robust clinical context as a general safeguard. It would be in the federal government's best interest to follow Quebec's lead.

Furthermore, Dr. Igartua, president of the Association des médecins psychiatres du Québec, told us that similar work was being done elsewhere in Canada. She stated:

I hope the senators will have a chance to read our report, or at least the executive summary. It's a meaty document, over 40 pages. Much of the work was done at the behest of the Collège des médecins du Québec. They looked to us for the views of the province's psychiatrists. I know the Canadian Psychiatric Association is doing similar work. The Canadian Association of MAID Assessors and Providers is also examining the issue. A group of professionals from across the country are currently working together to develop training materials.

In closing, I want to point out that the witnesses I quoted made scientific observations and legal arguments refuting the Minister of Justice's claim that the mental illness exclusion, the use of the concept of reasonably foreseeable death and the 90-day waiting period proposed in Bill C-7 are constitutional and comply with the Canadian Charter of Rights and Freedoms. Out of respect for our constitutional role as senators, I will therefore vote against this bill.

Honourable senators, thank you for your attention, and I want to congratulate everyone for our excellent debates over the past few days. Thank you.

[English]

**Hon. Mary Coyle:** Honourable senators, I am pleased to be speaking to you this afternoon from Mi'kma'ki, the unceded territories of the Mi'kmaq people.

After much study, listening, more study, discussion, sober reflection, and at times, agonizing deliberation, I rise to speak in support of Bill C-7, An Act to Amend the Criminal Code (medical assistance in dying).

I want to thank all members of the Senate Legal Committee and its capable chair, Senator Jaffer, for the thorough and thoughtful work you undertook in your study of this bill. I want to thank the bill's sponsor, Senator Petitcher; the critic, Senator Carignan; and the ISG legislative leads, Senators Keating and Cotter, for all of your work and leadership on this important yet difficult bill.

The many witnesses we heard from, the high-quality debate of our colleagues — aren't we fortunate to have among us the expertise of medical doctors, nurses, lawyers with expertise in health law, Indigenous law, constitutional law, criminal law and human rights law, and colleagues with relevant lived experiences? The communications we have received and the individual meetings I have participated in with representatives of national- and provincial-level disability rights organizations, as well as local meetings in my community with medical professionals, representatives of L'Arche, and a close friend who is living with painful, long-term physical disabilities, have all served to inform my understanding of this bill and its related complex and often emotionally charged context.

Colleagues, given that the Senate of Canada sent Bill C-14, Canada's current medical assistance in dying bill, back to the other place with an amendment removing the foreseeable death clause — which had passed here with support of senators from all caucuses and groups — one would think, even though the amendment wasn't accepted by the other place, that now, almost five years later, our job of looking at Bill C-7, which amends the Criminal Code in a similar way, would not be so difficult this time.

But difficult it has been, and I believe that is a good thing and a positive sign that the Senate of Canada is doing its job of providing sober second thought and a platform for many important voices to be heard.

• (1650)

The Senate committee made nine critical observations in its report. Thus far, we have passed five amendments and debated a further six.

I was particularly impressed with the testimony at the Senate Legal Committee of Ms. Julie Campbell, a nurse practitioner, MAID assessor and provider. Ms. Campbell said:

As I follow this process of legislative review and the media surrounding it, I often think of two words: trust and fear. It would be impossible to legislate every aspect of medical care, and so we have a system where legislation provides a framework, and clinicians act within that framework to establish and uphold the public trust.

She goes on to say:

Fear is fuelled by inaccuracies or lack of information. Trust is built by ensuring access to transparent, comprehensive and accurate information.

Just a small inaccuracy, or worse, a small inaccuracy fuelled by conflicting personal ethics, can lead to fear, and fear is contagious.

I want to thank our colleague Senator Chantal Petitclerc for her efforts in her speech this afternoon to provide accurate details on the eligibility criteria for MAID outlined in the legislation and clear information on the rigorous step-by-step process medical practitioners undertake with their patients and that person's whole network of care. This goes a long way to alleviating many concerns and fears.

Colleagues, while studying this legislation, we've heard loudly and clearly about many fears — fears of medical practitioners; fears of persons with intolerable pain and suffering; fears of persons with disabilities and disability rights advocates; fears of Indigenous peoples; fears of everyday citizens who worry about an erosion in the value of human life; and fears of citizens who worry that their own value and right to autonomy will not be respected.

At the same time, we have examined the data on the known wishes of many Canadians. We have learned about the early experiences of MAID in Canada; we have studied experiences with MAID in other jurisdictions; we have heard from those entrusted with the implementation of Bill C-14 and who will be entrusted with the implementation of Bill C-7, should it pass; we have heard about the ways the law and the environments in which it would be implemented are designed with the intention of protecting the rights of all citizens.

One set of fears we heard about has to do with conscience rights of medical practitioners. When I looked at MAID in my own community, I was told that many physicians may not object

to MAID, but they do not want to get involved or may simply lack expertise. Others, of course, are not involved for reasons of conscience.

All of these doctors and those who do provide MAID here are protected under the professional standards of the College of Physicians and Surgeons of Nova Scotia, which clearly states:

No physician can be compelled to prescribe or administer medication for the purpose of medical assistance in dying.

Similar provisions exist all across Canada. This is extremely important for the protection of the rights of medical practitioners.

Another fear that this new legislation addresses is the fear some people approved for MAID have of losing competency due to the unknown rate of progression of their medical condition and therefore losing their right to MAID.

Fellow Nova Scotian Audrey Parker chose to have MAID earlier than she would have otherwise wanted due to this fear. Audrey Parker's advocacy has resulted in the waiver of final consent option included in Bill C-7.

Our colleague Senator Boyer quoted Dr. Lisa Richardson, an Indigenous physician, in her speech on this bill last week. Dr. Richardson said:

In an environment where both systemic and interpersonal racism exists, I don't trust that Indigenous people will be safe. . . .

Heightened fear among Indigenous people is a natural and understandable response to that lack of trust.

As Senator Boyer stated, we must acknowledge and heed this unacceptable reality while, at the same time, demonstrating our compassion for those now suffering intolerably and respect the inherent right to self-determination, ensuring Indigenous people have the choice to seek MAID or not.

In order to build trust and allay fears, we must encourage the government to commit to improved consultation with Indigenous people as outlined in the sixth observation in the Legal Committee's report, and we must do so much better in ensuring that Canada upholds the rights of First Nations, Métis and Inuit peoples as outlined in section 35 of our Constitution. We must ensure that the promised federal distinctions-based Indigenous health legislation is Indigenous-led and moves expeditiously towards action and improved health outcomes for Indigenous people.

Two years ago, when we were debating the Accessible Canada Act, we repeatedly heard the clear slogan from the disability community: nothing about us, without us.

Today, we are hearing the same cry as Senator McPhedran reflected so clearly in her speech.

The fears of the disability community about Bill C-7 are well articulated in the letter of February 3, 2021, received from Gerard Quinn, UN Special Rapporteur on the rights of persons with disabilities; Claudia Mahler, UN Independent Expert on the

enjoyment of all human rights by older persons; and Olivier De Schutter, UN Special Rapporteur on extreme poverty and human rights.

On the topic of persons with disabilities, the letter states:

In particular, there is a real risk that those without adequate support networks of friends and family, in older age, living in poverty or who may be further marginalized by their racialized, indigenous, gender identity or other status, will be more vulnerable to being induced to access MAiD.

. . . recognition of the equal human agency, personhood and inherent worth of all persons with disabilities is said by the Committee —

— that being the Committee on the Rights of Persons with Disabilities —

— to underpin its conception of 'inclusive equality' . . . .

In sum, we are deeply concerned that the eligibility criteria set out in Bill C-7 to access medical assistance in dying may be of a discriminatory nature, or have a discriminatory impact . . . .

The stark reality is that even for persons with disabilities who have decent personal support networks, access to healthcare, home care, housing, transportation and other supports are woefully inadequate, and this abysmal situation has only been exacerbated by the COVID-19 pandemic.

We heard loudly and often that ableism and ageism, like racism, is a shameful reality in our society, and it therefore permeates our systems and interpersonal dealings. We have seen the horrifying rates of infection and death in our long-term care homes due to COVID.

For persons with disabilities dependent on home care, I am told there was already a pandemic before this pandemic. One individual in Nova Scotia has started a Facebook page entitled Tales of a Homecare Castaway.

It is no wonder that organizations representing persons with disabilities in Canada are displaying an overwhelming degree of opposition to this bill.

Again, we must listen and hear the well-founded fear of these voices — people who fear losing ground in the hard struggle for recognition of their common humanity and right to a dignified life.

But again, is the right answer to this harsh and unjust reality to throw the baby out with the bath water and just scrap this bill? How can we do this, colleagues, when we know there are people like Jean Truchon, Nicole Gladu, and the many silent citizens of Canada, whose irremediable pain and suffering is so extreme and so intolerable that they are asking for and demanding the right to choose a release from that pain by dying in peace and dignity?

Again, as our colleague Senator Ravalia reminded us, we are being asked to reconcile what can appear to be opposing sacred principles of the protection of life and the preservation of personal autonomy.

Colleagues, even if we find ourselves outside the narrow scope of this particular bill that amends the Criminal Code of Canada, we do have a clear responsibility as parliamentarians to respond to the concerns of persons with disabilities about the feared discriminatory impact of this bill.

The observations on patient-initiated MAID requests, oversight mechanisms, equality rights, meaningful choice and access to supports, access to data, parliamentary review, support services and international human rights obligations spelled out in the committee report on Bill C-7 will be important for us to follow up on and to ensure the meaningful participation of persons with disabilities in those efforts.

In the meantime, I also believe that we must look at what other measures, investments and financial incentives to provinces and territories could be undertaken to ameliorate the living conditions of persons with disabilities and others experiencing disadvantage in Canada.

• (1700)

The Government of Canada is undertaking a pre-budget consultation at this moment, so there is one immediate window of opportunity. Let's get creative about this aspect of building Canada back better after COVID, and let's encourage others to contribute to that process.

Honourable colleagues, in closing, let's pass Bill C-7 and respect the rights and choices of people who genuinely want and need MAID to relieve their pain and suffering once and for all.

Honourable senators, let's also commit to doing everything in our power to continue to build a society that truly values every person and supports all Canadians everywhere, no matter their circumstance, to enjoy a full and dignified life, free of the real fears we heard so much about over these past months while studying Bill C-7.

Honourable colleagues, fear will only be transformed into trust once concrete action and results are in evidence and widely experienced by those we have heard from.

Colleagues, this is on all of us. Thank you. *Wela'ioq.*

**Hon. Pamela Wallin:** Thank you for the opportunity to speak today in support of Bill C-7, as amended by the Senate of Canada. I do so in memory of my mother and father.

I would like to express my thanks to my colleagues for their hard work and their willingness to share profoundly personal experiences during this important debate on medical assistance in dying.

Let me say to Senator Simons that her words last week were powerful. Too many of us know exactly what she means, having watched our loved ones suffer needlessly without the comfort of the family they no longer know or the memories of their life, a life well lived.

I think this debate has highlighted not only the compassion and open-mindedness of senators but how far we have moved toward a truly independent and non-partisan view of our work and our responsibility here. That new approach has led to support for advance requests across the chamber, and I am grateful. You voted with your hearts and your heads, and I thank you.

This amendment has been more than five years in the making. It is an essential step in the right direction and not just for those with neurocognitive diseases but for all Canadians seeking peace of mind in the last years of their life and for all of those who love them. Consenting in advance to medical assistance in dying is not a privilege. It should be our right to have a dignified departure. We have and will continue to put into place systems to protect all of those involved.

We have heard from colleagues that further review of advance consent is needed and that the issue is too complex. There have been concerns from the disability community on any expansion of MAID. The constitutionality of the mental illness exclusion, even the much-needed definition of mental illness, remains, for now, unsettled. But there is a new deadline for resolution.

It has become an important focus, and Senator Kutcher has done an excellent job of educating us all on the responsibility of resolving this discriminatory, probably unconstitutional and certainly ill-defined exception in the law.

But time, truly, is of the essence. So many have waited patiently for so long for the government to deliver their long-promised review — to become more inclusive, to study, to listen and learn — and then, to decide, to make the laws fair and equitable.

It didn't happen, but fortunately the Quebec court gave us an opportunity to bring this issue back into the light so that we could pass my amendment, as well as others, while reassuring everyone that the process has layers of safeguards built in, as Senator Petitclerc laid out so clearly and in detail today.

The legal frameworks in the provinces and territories allowing for advance directives are already in place. There are mandated assessments, serious restrictions and appropriate conditions, and there are caring families, assessors, doctors and nurses who are there to protect those seeking MAID.

For those who think this amendment should not have been considered or passed, I ask: Why then does Audrey's amendment, which is entirely separate from the *Truchon* decision, appear at all in Bill C-7? The answer is simple: because it was the right thing to do. I thank you for agreeing that it's also the right and fair thing to extend Audrey's amendment to all Canadians seeking this choice so that no one is caught in the Catch-22 that holds people captive in a world they no longer know or understand.

Now people with dementia or Alzheimer's can plan for their future and maintain some control over their life and their death.

We are all eagerly awaiting agreement on the parliamentary review. There are certainly still many unanswered questions regarding MAID, like the troubling inequity in access to MAID between rural and urban populations. I look forward to the joint parliamentary committee put forward by Senator Tannas and Senator Boniface that was accepted overwhelmingly by the Senate.

I thank my colleagues for agreeing that now is the time to be brave and to offer those who have done so much for each of us — our parents or grandparents, husbands or wives, seniors and our elders — our thanks for all they have done for us, their country and their communities and to give them, if they so choose, the right to leave us with dignity, just as they have lived and loved and served us all with dignity.

The debate here in our chamber has been honest and from the heart. The amendments that have been adopted by this chamber seek to improve access to MAID while ensuring it should and must always be a matter of choice.

It's important, now, that the House of Commons take up its responsibility to listen to the messages from this chamber and from Canadians everywhere.

I say to our colleagues in the other place: please respect our views and judgment. Hear us, because truly listening means the ability to be changed by the other. To ignore these amendments not only undermines our work but the very intent and meaning of our Constitution and the rights it affords us.

This more independent Senate has led to a truly constructive legislative process. Our approach here on Bill C-7 is exactly the kind of independent work the Senate should and will continue to do. Thank you.

**Hon. Kim Pate:** Honourable senators, we have been tasked with considering the merits of Bill C-7 as an amendment to the suicide provisions of the Criminal Code of Canada. As a privileged, White, able-bodied woman, my impulse is not only to support this legislation but to expand it. I believe that health care professionals seeking to assist patients who have chosen to end their suffering should be protected against criminalization. Yet, when I examine Bill C-7 through the lens of the experiences of those who do not have our privilege, including those within my own circle and my own family, the troubling reality of far too many unanswered questions and discrepancies emerge.

The Legal Committee heard testimony from those seeking non-end-of-life medical assistance in dying from places of privilege, who have benefited from the safeguards, the resources and opportunities to live as they chose, and wanted to end their

suffering surrounded by loved ones in an idyllic setting, invoking images of champagne and sunset river vistas to which too many others do not have access.

We heard testimony from incredibly kind, compassionate MAID providers, but how can we ignore the reality that they exist within a system that has repeatedly, particularly during this pandemic, been revealed as rife with systemic discrimination? From witnesses during committee hearings, the release of reports and investigations in British Columbia and Quebec, the realities in long-term care institutions — especially those operating for profit — as well as the research of our colleagues like Senator Boyer and the first-hand experiences of Senator Bernard, we know too many in our health systems triage in ableist, racist, sexist and other intersecting ways that exponentially discriminate.

• (1710)

We also heard from those whose suffering is neither fatal nor inevitable, but rather the result of inadequate income, health and long-term care supports that leave people institutionalized, isolated and exposed to indignities.

How and why are we choosing to ignore the consistent critique of national, provincial and regional organizations that have for decades been the catalyst for our understanding, recognition and protection of the rights of people with disabilities? Not to mention the authoritative voices of two UN special rapporteurs responsible for disability and extreme poverty, and an independent expert on the human rights of older persons? Or scholars and experts whose lives and life's work have focused on history, ethics, philosophy, sociology, race, culture and economics through the lens of disability and the role that ableism plays in shaping law and policy? Or doctors, lawyers and people with disabilities themselves, including those who live in poverty or in the shadow of colonialism and racism or who have been institutionalized against their will? How can this testimony not weigh heavily on our minds?

Each and every one of these witnesses revealed that although discrimination, particularly ableism, class bias and racism, is rampant in our social, economic, health and political systems, if you do not experience it directly, it is almost — in fact, it is essentially — rendered invisible and therefore easy to deny.

Why, despite the Accessible Canada Act and commitments to examine all government legislation through a GBA+ lens of gender, race and disability, was the job of doing this left to witnesses and organizations whose resources are stretched so thin during a global pandemic? Despite committing to leave nobody

behind, why are we ignoring witnesses who explained how removal of the end-of-life criterion for medically assisted death relies on three ableist assumptions?

First, that the suffering that arises from a medical condition is substantially different from other forms of human suffering, so different as to warrant an exemption to the Criminal Code prohibition on assisting suicide — in other words, that death should be a choice for persons who suffer from a medical condition, but not for persons who suffer for other reasons, even if that suffering is intolerable to them.

Second, that the debate about Bill C-7 can be properly decided without reference to history, racial, social or economic context.

Third, that as long as the law gets out of the way of liberty, autonomy can be expressed freely and equally by all persons, regardless of their position relative to the social determinants of health — in other words, that offering a new choice that will clearly benefit persons who have privilege and authority will have no adverse effect on persons who do not. Why are we constructing death as a benefit for those with disabilities? What does that say about the value of their lives?

As lawmakers, are we accurately interrogating our own ableist fears and biases? Why are we not ensuring that intolerable suffering, whatever its nature, should warrant economic, care or other supportive interventions?

The UN Human Rights Council has signalled that our refusal to consider this bill in the context of a stark history of abuse inflicted upon persons with disabilities, often under the guise of mercy or protection, amounts to an ableist rigging of the debate. They have asserted that the compelling rhetoric of “choosing” a death “with dignity” will prevail in this debate if and only if, to paraphrase Gabrielle Peters, we persist in flattening the “us” that is Canadian society to White, wealthy and non-disabled.”

We have heard that when people are forced to live without income, food or safe shelter, without necessary medication and equipment, without access to communication, without access to crucial supports that have permitted many Canadians to carry on with relative comfort through a global pandemic, and without opportunities to participate, contribute, to be seen and to see themselves as having value, that in these very real and present circumstances, death, either by suicide or by MAID, will be and is being “chosen” in the absence of other relief. How is this anything but a fundamentally ableist formulation of choice? How, as these realities of systemic discrimination against and exclusion of persons with disabilities remain uncontested and irrefutable, can we support removal of current safeguards?

In October, the Supreme Court of Canada reminded us that “. . . differential treatment can be discriminatory even if it is based on choices made by the affected individual or group,” particularly where choices are constrained by systemic inequality.

Abstract notions of choice absent concrete realities of inequality mean that we risk conflating equality with choice:

. . . it is assumed that if we have freedom of choice, we have equality. But this is backwards: equality is the prerequisite for choice, not the corollary.

Unfortunately, as we are witnessing here:

. . . choice is not generally effective as a sword on behalf of equality claimants, but is frequently employed as a shield against equality claims.

By emphasizing the idea of individual choice without accounting for the fact that individuals will have unequal options to choose from, Bill C-7 stands to expand rights for some, at the expense of increasing inequality for others. As we debate Bill C-7, in whose name and in whose interests are we acting?

At the same time the minister testified to the Legal Committee, reassuring us about the scope of consultations with affected parties, BCANDS, an organization representing Indigenous peoples with disabilities, without the privileged platform of a committee hearing, was online, tweeting about the lack of adequate consultations with Indigenous peoples and persons with disabilities. These groups have characterized the government’s consultations as an exercise in being drowned out by more well-resourced individuals or excluded altogether.

Bill C-7 has been described as a law for those who are “. . . well, but worried, well off and White.” How many of us in privileged places recognize that we would not want to live in the kind of long-term care home we have too often seen deliver horrific neglect, isolation and suffering, particularly during this pandemic?

By failing to adequately fund and set health, economic and social spending standards while prioritizing the expansion of medical assistance in dying — a massive cost saver for the government — has the government reneged on its commitment to uphold the Charter, international obligations and foregone its commitment to end poverty and to ensure recovery for all?

Honourable senators, I have listened carefully to all, and I have endless respect for the sponsor of this bill, but I find these realities beyond disquieting and query whether this is the legacy we want to leave for those who do not enjoy our relative privilege and opportunities. Honourable colleagues, I thank you. *Meegwetch.*

**Senator Batters:** Honourable senators, it is with a heavy heart that I rise today to again speak to the third reading of Bill C-7, the Trudeau government’s bill to expand assisted suicide. It was less than five years ago when many of us stood in this chamber to debate Bill C-14, the bill that legalized what advocates have termed medical assistance in dying, or MAID. It is alarming to

see in the current Bill C-7, just how quickly the Trudeau government dismantled some of the very safeguards many of us, including the government, insisted on in Bill C-14. That bill provided Canadians at or near the end of their lives with the means to hasten their deaths.

Today, we are discussing expanding that regime to include access for Canadians for whom death is not reasonably foreseeable so that now people may be seeking access to end their lives many years before their anticipated natural deaths.

• (1720)

Amendments brought in recent days in this chamber blow the bill wide open to include people suffering with mental illness and allow for advance directives. The implications are profound and, I believe, tragic.

We are supposed to be a chamber of sober second thought, colleagues, but I am afraid you have put in motion a runaway train, and the consequences will be dire. Under the sunset clause, for the next 18 months, while the government is supposed to be preparing to allow assisted suicide for people with mental illness, look what is going on in the world outside these walls. This pandemic is raging; our health care system is buckling under its pressure. Persons with disabilities face a COVID-19 triage protocol that places their lives at the bottom of the list in a competition for scarce resources. Our mental health care system is also a casualty as we face a shadow pandemic of mounting anxiety, suicidality and substance abuse. Yet it seems the Trudeau government will continue full steam ahead with this enormous and unwise shift in social policy in Canada. In the next 18 months, during a global pandemic, shouldn't we focus on saving Canadians' lives instead of helping so many more die?

Make no mistake. In passing Bill C-7, we are not following the dictates of the Supreme Court of Canada in the *Carter* decision. In *Carter*, that court stated:

The scope of this declaration is intended to respond to the factual circumstances in this case. We make no pronouncement on other situations where physician-assisted dying may be sought.

Death was reasonably foreseeable for the plaintiffs in *Carter*, so that case tells us nothing about the constitutionality of Bill C-7, which asks us to extend MAID beyond easing people into a less painful death to offering death as a response to a painful life. There is little doubt that Bill C-7 will be overturned by Canadian courts because it violates the Charter rights of persons with disabilities. The equality analysis of this bill may turn on whether we characterize medical assistance in dying as a benefit. If it is a benefit, why is it only a benefit to people with disabilities and serious and incurable medical conditions? We must confront what it is about disability and irremediable medical conditions that make that suffering unique and worthy of death when we don't respond to any other suffering that way. We respond to others who suffer intolerably with active suicide prevention efforts, and where necessary to save a life, we say, "Damn your autonomy. Your life matters." That is what equality demands.

The UN Special Rapporteurs have told us that this exceptionalizing of the suffering associated with illness and disability is grounded in our deeply embedded ableism, which devalues the lives of persons with disabilities. They claim that Canada has created a two-tier system in which some Canadians get suicide prevention, while others get suicide assistance.

We know from the case law on section 15 of the Charter that laws that single out disability for special treatment based on ableist assumptions about the value of disabled lives or the uniqueness of their suffering will be found to violate section 15.

We already have three international experts telling us this bill is discriminatory. And why is it precisely those we say we are benefiting, disabled Canadians, who are fighting this bill so vigorously? They are telling us — in fact, screaming to be heard — that they don't want this so-called benefit. What they want from section 15 is equal protection of the law and the safeguard that the "reasonable foreseeability of natural death" clause provides to all other suffering Canadians. And what they want from government is not a fast track to death but, rather, the necessary financial and other supports that give them the option to live a dignified life.

None of the litigation that has taken place thus far has heard from plaintiffs who have been pressured into MAID or have felt their lives devalued by MAID. Those cases will come if we pass this bill. In fact, Mr. Truchon himself said he did not want to die. He wanted to live in his community, closer to his loved ones. Yet our response to Mr. Truchon was not to say, "We will support you to live in your community." Our response was that he had a constitutional right to die. The constitutional right to life was simply too expensive.

Many members in this place speak so loftily of human rights, the beloved Charter, autonomy, but your vote for this bill sends the message to persons with disabilities that living with a disability is fate worse than death. What does that say about their human rights, honourable senators? Is it true autonomy when you feel like you have no viable options other than death because the system has discriminated against you all your life? What Charter right is engaged when an able-bodied person who is suicidal receives life affirming suicide intervention, but a person with disabilities is offered assisted suicide as a rational choice because, "You're right; your suffering must be intolerable. There is just no hope for you?"

And what is the effect of offering that same message to people suffering with mental illness? In many situations, the trust in the patient-psychiatrist relationship may be the only thing that is keeping someone who is suicidal alive. As our committee heard from psychiatrist Dr. Sephora Tang:

My patients need to see that I remain firm in giving them hope, that I'm not going to give up on them even if, in a moment of desperation, they want to end their lives. They need to come to me and be guaranteed that I'm not going to collude in their suicidal urges and their hopelessness, because my job as a psychiatrist is to give them hope when they have lost all hope.



For a psychiatrist to offer assisted suicide to a patient suffering from mental illness is a betrayal of that trust. Offering a suicidal patient the guaranteed lethal means to death is an abandonment of the doctor's professional and ethical obligation to first do no harm.

So why is this chamber voting to put mental health professionals in this position? Some senators have called the mental illness exclusion in Bill C-7 unconstitutional, claiming it violates the section 15 equality rights of people living with mental illness. I strongly disagree. Mental illness must be treated differently from physical illnesses when it comes to accessing MAID, due to its inherent nature. Mental illness clearly does not meet one of the essential criteria established to qualify for MAID — that of irremediability. Irremediability does not mean get worse; it does not mean a condition is really bad or intolerable. Irremediability means a condition or illness will never get better. That is just not true when it comes to mental illness. To pretend otherwise is itself discriminatory.

The issue of assisted suicide in Bill C-7 boils down to a matter of privilege versus one of need, between those who have options in our society and those who do not. We have heard from persons with disabilities, from Indigenous peoples, from Black and racialized Canadians, people living in poverty and people suffering from mental illness. Vulnerable Canadians will be the ones to pay the price.

I can't even tell you how many times I have heard senators who support the government say in this chamber, "Don't let the perfect be the enemy of the good," kind of a hold-your-nose-and-pass-it-anyway sort of maxim. But this bill is nowhere near perfect, and it's certainly not good.

In fact, in its time in the Senate, this bill has become so much worse. Where does the great progressive Trudeau government stand on this, this misty-eyed Prime Minister with his commitment to evidence-based policy and so-called real change? This expansion isn't based on evidence, honourable senators; it's based in ideology. And it's change, all right, but not for the better.

It was astonishing, frankly, to see the government leader in this place shuffling his feet and staring at the floor while abstaining on the vote to remove the exclusion of mental illness from this bill. Only a few short weeks ago, Senator Gold, you gave an impassioned and well-reasoned constitutional argument for keeping that very exclusion in place. But now you, your government caucus and even the sponsor of this government bill have nothing to say on that. As Senator Petitclerc said when I gave her the additional chance to defend the exclusion, "I said what I wanted to say . . . ."

Well, honourable senators, I haven't. I want to say to my honourable colleagues in the House of Commons and to you here, honourable senators, only three weeks ago it was Bell Let's Talk Day, and many of you signalled your support for mental

health through your social media. But posting a couple of tweets once a year just isn't good enough. This is where the rubber hits the road. Either you are on the side of people with mental illness or you are not. We are not doing people with mental illness a favour by allowing them to access assisted suicide. That is not treating them with equality. That is robbing them of hope and handing them a death sentence where there doesn't need to be one.

Every year, 4,000 Canadians already die by suicide, and more than 90% of people who die by suicide suffer with mental illness. In 2019, the number of Canadians who died by MAID was already more than 5,600, and that was before assisted suicide was expanded to include people who are not near death. If Bill C-7 passes as this chamber has amended it, it would not only include people who are not near death, but it would also include people suffering with mental illness and would allow advance directives for those who may not even yet have a diagnosis of anything. As a result of this legislation, how many more Canadians will die every year?

We must not expand assisted suicide for the same reason we don't have capital punishment in this country and why we haven't had it for as long as I've been alive: Because the state shouldn't have the right to put its citizens to death where there is a risk that sometimes, even just one time, the state might be wrong.

Death is sometimes referred to as the "great unknown." So, too, is this new frontier of assisted suicide a great unknown. The government is pushing Canada to charge into that abyss without really knowing where that will lead us. Only a handful of countries have legalized assisted death, fewer still in cases where death is not imminent or on the grounds of psychological suffering. We don't know whether a person who is mentally ill is requesting assisted suicide as a symptom of their illness. We don't know whether the suffering of someone not near death could be eased by offering other social supports and options instead. We won't know how many people may be wrongfully put to death when death is not reasonably foreseeable.

• (1730)

Even one is too many, honourable senators. As a family survivor of a suicide loss, I assure you that one loved one lost is the entire world to someone.

Honourable senators, we need to step back and think critically about the expansion of assisted suicide in this bill. There are no data or evidence, there's been grossly inadequate consultation, we have very few statistics and not much of a monitoring system. There has been no parliamentary review.

This bill casts aside existing safeguards, and last week, you not only agreed with opening this legislation to people nowhere near death and people with disabilities, but now you've extended it to people with neurocognitive disorders, people who are mentally ill and people who have not even received a diagnosis of any kind, potentially years in advance from when MAID would currently even be a possibility.

Honourable senators, I really fear we are at a precipice — the point of no return. The parliamentary review was supposed to study extending assisted suicide to people with mental illness, advance directives and children. It is shameful that in the last few days in the absence of data, evidence and the seemingly complete absence of sober second thought, this chamber has pushed ahead anyway on people with mental illness and advance directives.

Thanks to you, honourable senators, children are now the only frontier left — but for how long? How long will it be before you also justify that under the guise of equality?

This is not about aiding people who are already dying to die peacefully. That matter was settled five years ago. This is about the state ending the lives of people prematurely, in some cases by years. This is the very antithesis of what the court ruling in *Carter* aimed to address, and it is leading to us straight into a moral and ethical quagmire.

Honourable senators, I know most of you are voting for this bill and amendments out of a place of compassion, but I am begging you to please realize that expanding assisted suicide through Bill C-7 will mean that people may die needlessly. Under this ableist discriminatory law, it might be easier for them to access assisted death than to access the right treatments or supports they need to alleviate their suffering and live. I look around this chamber and to you on your screens at home, and I see senators I know have stood for good in this place. You have offered words of support and worked on behalf of persons with disabilities, those with autism and for people who suffer from mental illness and dementia; for Indigenous peoples, and Black and racialized Canadians; for those living in poverty; and for those in prison. All of those Canadians stand to potentially lose their lives needlessly if this bill proceeds.

Honourable senators, these Canadians need more than your words of support; they need your action, and they need it in this moment. Senators, it is not too late. You still have the opportunity to do the right thing by voting against this bill. Quite literally, the fate of innumerable Canadians' lives rest in your hands. Choose wisely. Thank you.

**Some Hon. Senators:** Hear, hear.

**Hon. Pierre J. Dalfond:** Honourable senators, as we close our third reading debate on Bill C-7, which expands the constitutionally guaranteed access to medical assistance in dying, I will address some concerns that were raised throughout our debates.

First, I would like to acknowledge the two Senate amendments that directly address concerns about the exclusion of mental illness. Those are Senator Kutcher's amendment to remove the mental illness exclusion after a sunset period of 18 months, and my own amendment to clarify the meaning of "mental illness," which will hold during the sunset period.

Senator Kutcher's amendment addresses the discriminatory treatment of a blanket exclusion of all individuals with mental illness as the sole underlying condition for requesting MAID. It affords the government, provinces and the medical profession sufficient time to implement safeguard measures and processes needed to allow for safe individualized assessment of requests

based on mental illness alone, as required by the Supreme Court's judgments in *Carter* and *Ontario (Attorney General) v. G.*

My amendment clarified that the exclusion regarding mental illness, however long it remains in force, should not include neurocognitive disorders such as Alzheimer's disease, Parkinson's, Huntington's and other forms of dementia. Otherwise, Bill C-7 would actually restrict access to MAID compared to the current regime, a result that would be a step backward, totally unacceptable and unconstitutional. It ensures that individuals with neurocognitive disorders who are able to consent and meet the stringent eligibility criteria, under track 1 or track 2, do not see their access to MAID restricted, an outcome that would be completely unacceptable and, again, unconstitutional.

These amendments are demonstrative of the contribution of sober second thought in this chamber. They are supported by the evidence heard at the Legal and Constitutional Affairs Committee, which greatly benefited from over 30 testimonies and countless written submissions on the matter of mental illness. Both amendments came after due consideration of the evidence available, and neither would have been necessary had Bill C-7 not included a blanket exclusion of mental illness.

I am hopeful the members of the other place will reach the same conclusion after considering the ample evidence available.

[*Translation*]

Contrary to what some people have said or written, it is not easy for people whose natural death is not imminent to access MAID, and it would be completely impossible for a person who is depressed to receive MAID the same day they requested it. As Senator Petitclerc pointed out, a person who wants to receive medical assistance in dying must first sign a form to request MAID, triggering an assessment process in which two medical assessors must unanimously find that the person meets specific criteria. First, the person must have a serious and incurable illness, disease or disability. Second, the person must be in an advanced state of irreversible decline in capability. Third, the person must be experiencing enduring physical or physiological suffering. Fourth, their suffering must be intolerable and impossible to relieve under conditions that they consider acceptable. Fifth, at least 90 days must pass between the request for MAID and the administration of MAID.

[*English*]

That said, it is clear that we must continue to gather data on MAID, and deepen our understanding of how and whether it is being accessed by Canadians from all regions and of all backgrounds. Senator Jaffer's amendment on the collection of race-based data will certainly contribute to these discussions, and I thank her for bringing it forward.

Senator Tannas's amendment offers a simple yet effective solution for this chamber and the other place to finally conduct a comprehensive review of MAID since its enactment in 2016. The joint Senate and House of Commons committee will also give us the opportunity to examine more closely what kind of legal framework should apply to advance requests, the need for which

was well argued by Senators Wallin and Boisvenu, and other areas for expansion and concern, as well as areas of concern and ways to mitigate them.

Our discussion on MAID will undoubtedly continue in the years to come. As one witness, Professor Daniel Weinstock from McGill University Faculty of Law, speaking as an individual, put it:

... the debate over the right way in which to institutionalize MAID in a set of laws will be a kind of political-judicial ping-pong game for years to come ...

While we continue our thought process and fine-tuning of the framework, it does not mean that we must refrain from making incremental changes supported by the evidence, like those proposed by the government in Bill C-7 and our amendments on mental illness.

Last, I would like to take a few minutes to address the argument that Canada will provide the most liberal access to MAID in the world by removing the “foreseeable death” requirement, and that the bill is against the UN Convention on the Rights of Persons with Disabilities. As you know, Belgium, the Netherlands and Luxembourg have allowed MAID outside of the end-of-life context for many years now. Those three countries have ratified the Convention on the Rights of Persons with Disabilities — Belgium in 2009, Luxembourg in 2011 and the Netherlands in 2016.

• (1740)

At committee, in an answer to a question by my colleague Senator Harder about whether the special rapporteur Gerard Quinn, or his office, had looked into the effect of those countries’ legislation on people with disabilities, Mr. Quinn said:

As I said at the outset, we are looking at international trends. The legislation pending before your Parliament, similar legislation is pending before three or four parliaments around the world at the moment. We’re actually gathering intelligence on that legislation to find out where it’s at. We have not yet made a comparative study of how the legislation in the Benelux countries is working, but we will certainly look into that and come back. ...

I’m just three months in post. We’re putting our work program together, and that’s obviously going to form part of the work program.

Mr. Quinn also confirmed that none of his predecessors inquired into this issue, even though MAID has been provided in these three countries for almost 20 years in some instances, as well as in Switzerland, another party to the UN Convention.

In addition, two other countries that ratified the convention, Portugal and Spain, are in the legislative process of allowing MAID outside the end-of-life context, including for disabled people. MPs in Spain have adopted the relevant piece of legislation in December 2020 by a vote of 198 to 138, with two abstentions. The bill is now before the Spanish Senate. In

Portugal, the Assembly of the Republic adopted a MAID bill in January 2021 by a vote of 136 to 78 with 4 abstentions, and the bill now awaits presidential confirmation.

[Translation]

We can also expect France, another country that is a party to the convention, to follow their lead soon. Just recently, at the beginning of February 2021, Jean-Louis Touraine, a member of the National Assembly of France, introduced a bill on dying with dignity, which seeks to authorize active medical assistance in dying, with the support of a majority of members of his party, La République en marche or LREM. Earlier this month, the Keeper of the Seals, as the French justice minister is known, said on television that he believes that France is ready for active medical assistance in dying and that he is personally in favour of it.

In 2016, France legalized “deep and continuous sedation until death” for people at the end of life, a measure that is now considered insufficient in the array of options sought by French citizens who want to die with dignity.

[English]

I offer this context to highlight that the legislation before us today is not as much an anomaly as some are making it out to be. Given the number of our allies who are party to the convention and who have or are moving in the same direction, I wonder if it is not hasty to conclude an egregious violation of the convention. With the utmost respect for the UN Special Rapporteur’s statement of his grave concerns, I’m not convinced we should undo all the work this chamber has done since 2016.

Thus, in conclusion, I will support this bill for many reasons. First, to remove the second track and to limit access to MAID to those whose death is reasonably foreseeable will negate a proposal which is supported by 71% of Canadians and was endorsed by 213 MPs from all political parties in the House of Commons.

Second, the second track enforces a constitutionally protected right to autonomy and dignity recognized by the Quebec Court in *Truchon* and by the Alberta Court of Appeal in *E.F.*.

Finally, no need to repeat that the reasonably foreseeable death criterion was rejected by the Joint Committee on Physician-Assisted dying in 2016, and it was also rejected by this chamber in June 2016 when former Senator Joyal moved to remove it from Bill C-14.

In conclusion, I invite you to give your support to Bill C-7, which provides access to MAID for those whose death is not foreseeable but, under stringent conditions, designed to protect those who may be considered vulnerable. Thank you. *Meegwetch.*

**The Hon. the Speaker pro tempore:** Senator Pate, do you have a question for Senator Dalphond?

**Senator Pate:** If he would take a question, yes.

[Translation]

**The Hon. the Speaker pro tempore:** Senator Dalphond, would you take a question from Senator Pate?

**Senator Dalphond:** Of course.

[English]

**Senator Pate:** Senator Dalphond, for the countries you looked at in terms of the comparison, are you aware of what percentage of their GDP they spend on supportive services versus, for instance, Canada?

[Translation]

**Senator Dalphond:** I thank Senator Pate for that excellent question, which also came up at the Legal and Constitutional Affairs Committee. I'll just give the same answer. I don't know any more than the special rapporteur and his staff, who worked on this issue, including the rapporteurs on poverty, persons with disabilities and others.

[English]

They said they had not looked closely at their spending or performed a comparative analysis.

[Translation]

That's the answer we were given. There hasn't been a study on this. I'm looking forward to the rapporteur and his office giving us some numbers for the percentage of GDP that all countries are spending on the fight against poverty. Thank you.

[English]

**Senator Pate:** Would you take another question, Senator Dalphond?

**Senator Dalphond:** Yes, of course.

**Senator Pate:** Would you agree that the review that was proposed by our Senate colleagues should include that review? It may not surprise you that OECD countries have been looking at this and find that Canada lags significantly behind other countries. Therefore, would you also agree that this would be an important facet for us to examine as part of the review?

[Translation]

**Senator Dalphond:** There's no doubt that more can be done in terms of medical assistance and supportive care. Just last week, an individual who kept putting the pressure on finally got support from the Government of Quebec to live in a residence, not a long-term care home. The situation should keep getting better, but any improvement must never be used as grounds for denying other people their constitutional right, for denying Ms. Gladu, Mr. Truchon or anyone else the rights they wish to exercise, the right to autonomy and dignity.

[ Senator Pate ]

[English]

**Hon. Rosemary Moodie:** Honourable senators, as we close out our debate on Bill C-7, I want to thank you for your participation, your careful thought, reflection and your passion during this debate. The subject matter of Bill C-7 is complex, contentious and profoundly personal. I applaud and thank all senators for your willingness to stand and debate. And I want to thank witnesses who joined us and shared their views, as well as Canadians who emailed or called us. We owe you an immense debt of gratitude for sharing your experiences and your expertise, as it has greatly helped us to appreciate the complicated and difficult issues surrounding this legislation.

In 2016, when Bill C-14 was passed, the extensive deliberation by Parliament was only the beginning of the work. All across this country, clinicians followed Parliament's deliberation and sought to understand how to operationalize this law. Nearly five years later, Canada benefits from a robust network of providers and assessors who provide support, training and resources for practitioners who care for patients and their loved ones.

Unfortunately, it has been claimed, without any evidence through peer-reviewed publications, that drug protocols developed by these professionals are not safe for patients — specifically that the drugs used in MAID — lead to unpleasant effects for the patients, and that Midazolam, one of the drugs used as a sedative in the drug protocols, leads to distress for patients undergoing a MAID procedure and is upsetting for the families present at the procedure to watch.

This is not what I heard from any of the providers of MAID whom we surveyed, nor for the families who shared their experiences with us.

Colleagues, if you have questions about the process of MAID, I suggest that the best way to avoid misinformation is to reach out to those who work in this domain. It is always helpful to turn to experts and stakeholders in our communities when considering this and other matters. Those on the ground are always the best placed to give strong, evidence-based advice.

Talk to someone like Dr. Eric Thomas, a practitioner from southern Ontario who shared with my office that, in 2016, he requested an autopsy on a patient who died from MAID. He stated explicitly that there was no pulmonary edema found at that autopsy. This is in direct contradiction to some of the claims we heard in committee.

Talk to someone like Julie Campbell, a nurse practitioner in Ontario who has been quoted many times this afternoon. She notes that in my home province, 49 MAID patients went on to donate organs. She also shared with us a case report by Dr. Andrew Healey and colleagues who detailed lung donations made after MAID was provided — lungs that were in good shape, by the way.

• (1750)

Colleagues, to continue, as we've heard, the proposed provision to exclude mental illness as the sole underlying condition for MAID is contrary to Canadian Charter rights and

medical expertise. I strongly believe that this clause is discriminatory and I'm very glad we passed an amendment to move us towards allowing full access to MAID for all eligible Canadians.

To exclude mental illness as a sole underlying condition from MAID serves to perpetuate misconceptions about mental illness and the stigmatization of those with mental illness that is rooted in historical ignorance.

Dr. Spencer Cleave, Medical Director of the High Complexity Care Team based in Eagle Creek, wrote to my office that the distinction between mental illness — depression and PTSD, for example — and physical illness, which encapsulates all other types of illnesses, was derived from the historic lack of precision of all tools for measuring what is happening in the brain, as opposed to the processes occurring in the body. He says we must not let our past ignorance inform our current actions.

This ignorance could also lead us to incorrectly suppose that mental suffering should not be considered equal to physical suffering. The Halifax Group, which included many of the members of the Canadian Council of Academies report, pointed out that there is no evidence that suggests that mental illness cannot cause the same kind of irremediable suffering as physical illness. This is also the view shared by a number of witnesses during the study and pre-study of Bill C-7.

By advancing a contrary view through this bill, the government is pushing forward a cruel and inaccurate message that is contrary to decades of work and research on mental health. This is dangerous and will have broader implications beyond this debate. It is necessary that we correct it.

Second, mental illness as used in the bill is vague and disconnected from the reality of front-line clinicians and regulators. According to Mr. Wayne MacKay, who appeared before the Legal Committee during its study on Bill C-7:

There are also problems of vagueness as mental illness is not defined nor is psychological suffering. In addition to raising constitutional problems and vagueness, it causes real problems for front-line medical clinicians because they have to decide the line between psychological suffering and mental illness in order to determine whether or not they have committed murder.

Dr. Grant from Nova Scotia shared the perspective of a regulator:

... I submit the provisions excluding patients with mental illness from MAID are problematic. The present language in Bill C-7 is too vague and non-medical for good regulation. Moreover, the intent of the language will weaken regulation, will weaken medicine and will weaken the public's confidence in medicine by setting a standard inconsistent with good medical practice. I would urge that this provision be reconsidered. ...

Finally, we know that assessors and practitioners, including psychiatrists, are confident in their ability to identify when an individual is dealing with irremediable suffering rather than acute or remediable illness.

Colleagues, please understand that a MAID assessment is more than just a checklist, as we've heard. When my office surveyed clinicians around the country, we concluded that assessments are both compassionate and thorough.

It starts with a deep study of the patient's file and medical history. They meet the patient. They get to know them, as we have heard. They get to know their stories, understand their illness, their family life, their world view and beliefs and why they want to take MAID. When my office spoke to clinicians, some shared with us that they specifically seek to determine whether or not an individual is being coerced by a family or caretakers. Assessors often go well beyond to understand and seek the opinion of those who have known the person for meaningful lengths of time.

It is clear to me that in such a process, a trained professional would be able to determine whether an individual should be approved for MAID, even if the sole condition is mental illness, because they already have this experience outside the end-of-life context.

For those of us concerned that poor assessment will lead to approval for acute cases, the answer is not denying an entire section of citizens their rights; it is providing time for professionals to build curricula and ensure rigorous standards and training and they will follow the passage, as they did following the passage of Bill C-14.

The exclusion of mental illness as a sole underlying condition should not have happened. I believe this chamber took a responsible step when we amended this bill to suspend the exclusion in 18 months. It is now up to clinicians to develop a robust framework to ensure patients with mental illness as a sole underlying condition receive care that respects their rights and their autonomy while acknowledging the complexities that their cases present.

Beyond mental illness, this chamber has made, in my view, substantial improvements to the bill, such as race-based data collection, advance directives and a parliamentary review. Once we pass this bill, we know we are going to receive a message back from the other place in a few short days and this will begin the last set of very important deliberations. The amendments we have agreed to are in line with our mandate to represent minorities and to ensure all laws respect our highest law, the Charter. It would be important that the government representative and his team in the chamber make every effort to impress upon the government the broad consensus these amendments received and that it is key that the government pay attention to what the Senate is saying, lest history repeat itself and Canadians have to go back to court once more.

Unfortunately, it is likely that the government will reject one or many of the amendments consented to by this place. Therefore, we must begin to consider how we will vote in response to the upcoming message and assess our willingness to insist where necessary or to oblige.

Beyond this bill, medical assistance in dying will be a hotly debated and contested topic for many years to come. It is vital that we begin our parliamentary review on the regime as soon as possible so we can consider important topics, such as advance consent, rural access and other elements such as mature minors.

Honourable senators, as I conclude, I want to thank our colleagues Senator Petitcherc for sponsoring this bill and Senator Jaffer for leading the Legal Committee through many hours of study and for her focus on the impact of this bill on racialized Canadians. Thank you, colleagues.

[Translation]

**Hon. Pierre-Hugues Boisvenu:** I, too, wish to acknowledge the exceptional work done by Senator Petitcherc, the sponsor of this bill.

I am pleased to speak one last time at third reading of Bill C-7. I want to point out that, while we often have difficulty reaching consensus in the Senate, I think we can all agree that of all the issues that have come before the Senate, none has been more emotionally charged than what we are dealing with now, in Bill C-7.

For many people, this is simply a matter of living or dying with dignity, humanely, surrounded by the love of their families and friends. We may disagree on some issues, but that doesn't mean I don't respect and appreciate the care that my colleagues, even those with whom I don't always agree, have taken in reaching their conclusions, and it doesn't mean that their values and opinions are better or worse than mine.

We have dealt with this bill in full equality as senators. The decisions we make in this place when this debate is finally over will potentially affect, in a very personal way, the lives of every Canadian, now and in the future in one form or another, including the lives of our family members, our friends and ourselves.

We have been given an extremely important responsibility. I feel privileged to have participated in this debate and to have had the chance to hear poignant testimony from all these Canadians who are concerned about medical assistance in dying and who remind us that life is precious and hangs by a thread.

• (1800)

As I said at second reading stage, Bill C-7 stirs up a lot of emotion, leading us to question our own perceptions of life and death. Basically, it is an opportunity for us to reflect on our

human values as we are confronted with the cruel and unacceptable situations some human beings are unjustly condemned to live with.

Throughout all our discussions on Bill C-7, I always spared a thought for people with serious and incurable physical or mental illnesses, who struggle every day with challenges that few of us can truly understand. My thoughts go out to patients with a mental illness who are excluded from MAID. I thought it was a shame that the only reason for the exclusion was the lack of research on the issue. To be honest, I expected better from the federal government, which had five years to study the matter. The coronavirus may have delayed research, but it can't be the only reason for this delay. When we received the bill in the Senate, I made a number of criticisms and shared my reservations about this problem with my colleagues. First, we talked about the unconstitutionality of the bill, as we did with Bill C-14.

The Supreme Court of Canada's ruling in *Carter* was clear about the fundamental principle of the Canadian Charter of Rights and Freedoms, namely that any legislation on medical assistance in dying, both for people who are suffering and for those who are dying, must fully respect the Charter. Unfortunately, when Bill C-14 was adopted, the government did not heed the upper chamber's warnings. It chose to reject Senator Joyal's amendment and ignore the recommendations in the February 25, 2016, report from the Special Joint Committee on Physician-Assisted Dying.

The Superior Court of Quebec's decision in *Truchon* reiterated the federal government's responsibilities. I hope that this time, the government will not reject Senator Kutcher's amendment, which would give the government 18 months to develop appropriate safeguards for cases in which mental illness is the sole underlying condition. It would be troubling if this amendment were rejected, since it provides a temporary fix to the constitutional issues with Bill C-7, which violates the Charter right to equality. However, I am not very optimistic about Minister Lametti's promise of openness.

As you know, when the minister appeared before the committee, I was troubled by the confusion over people with neurocognitive disorders. We were not specifically told whether they would be excluded from the bill. When the minister clarified this point, some witnesses told us that MAID does not apply to people with neurocognitive disorders because of the way the law is written.

When we studied this in committee, I spoke with Mr. Ménard about advance requests. I asked him if the bill was clear with respect to degenerative diseases. He replied:

The answer to your question is no, because in principle, people with Alzheimer's disease, at the onset of the disease, are still in good enough condition to decide their fate. However, as the disease progresses, that ability is lost. It can be lost a year, two years, or three years before the final deadline. So I think the person is no longer able to consent until the end.

[ Senator Moodie ]

People with neurocognitive disorders are human beings experiencing suffering that will sooner or later lead them to an end of life that they are aware of but have no control over. To let these people decide with dignity how they want to die, they should be able to choose what they wish to do.

I was deeply moved by the testimony of Sandra Demontigny who, like her father, was diagnosed with Alzheimer's disease at the age of 38. As I mentioned in my speech on my amendment, this mother of three wants just one thing: to die with dignity, when and how she and her family have chosen. The disease has stolen her life. She doesn't want it to steal her death. Her first-hand account is one of many that I have received since I raised the issue last week. Hundreds of people have written to me to share their stories and their suffering, but more importantly to talk about how they can't stay silent about a bill that affects them directly.

We are senators, we represent them, and it is our duty to convey their wishes, in the form of amendments, to the House of Commons.

As I explained in my last speech, neurocognitive diseases are unique in that it is difficult for a person who is slowly losing their faculties to set a fixed end-of-life date with their doctor. Based on this principle, in order to guarantee real access to medical assistance in dying, it is essential that those suffering from such diseases are able to make an advance request, which would allow them to die in the manner of their choosing, without being a burden to their loved ones. Alternatively, they could entrust a family member with the responsibility of ensuring that their final wishes are carried out through a proxy request. In order for people to be able to exercise such a right, Senator Wallin proposed an amendment that seeks to have the bill authorize advance requests. I applaud her for that. Honourable senators, one of my greatest desires is that the government not ignore this requested amendment, because Bill C-7 and the existing legislation perpetuate an unacceptable legislative grey area.

Honourable senators, I do not want Parliament to make the same mistake it did in 2016. The issue of advance requests was raised during the debate on Bill C-14, but after five years, the government is still not showing any openness on this issue.

As Ms. Chalifoux said in committee, "This aspect has not been covered at all in Bill C-7."

In my view, if the amendment to Bill C-7 is rejected, that would quite simply be hypocritical towards these patients. In principle, the bill does not prohibit people with neurocognitive disorders from accessing MAID. It does, however, prohibit them from making an advance or proxy request. It would be hypocritical to mislead these individuals who are suffering. This is like telling them that they have the right to die, but they have to set a date in the next few days, otherwise they won't be able to do it later and they'll have to go to another country to access MAID, as many people do.

In closing, I would like to quote from the letter I wrote to the minister, the Honourable David Lametti, last Thursday. It reads as follows:

It is vital that we take into account all patients and their loved ones, and that is why I am asking you to recognize the wisdom of the Senate, which is sending you a clear message with the outcome of the vote on this amendment. The upper chamber has clearly understood the injustice toward these individuals and has seriously considered the fact that the mistake made when Bill C-14 was adopted in 2016 must not be repeated. At the time, the act ignored citizens who face death courageously but have no opportunity to bring it about as and when they choose, with dignity and the utmost respect for their family. To make that same mistake again and deliberately ignore the Senate's amendment, an amendment that is both necessary and sought after by all these suffering people, would be unacceptable.

The minister's response was very brief. He said, "Thank you. I'll think about it."

I only hope the minister will not make the same mistake this government made in 2016 by ignoring people who have the right to die with dignity.

Thank you.

**Hon. Renée Dupuis:** Honourable senators, I rise to note that for several weeks, we have been hearing testimony from people from various backgrounds, with various conditions and from various regions. Those people told us that life has lost all meaning because of the physical and/or mental suffering that has become intolerable to them.

• (1810)

We have also heard from their loved ones, their caregivers, who implored us to respect their dignity, their agency and right to decide for themselves, their autonomy and their wish not to be subjected to treatments, drugs or other therapies by other people, even people who say they want what is best for them or know better than they do what is right in their situation.

We have heard from many witnesses who are directly involved in Quebec's medical assistance in dying regime, a regime that has been the topic of in-depth public discussions for more than 10 years. These witnesses told us, first, that we must not lose ground on protecting the rights that they fought for and that were finally recognized, and second, that the current regime must go further in respecting the autonomy of adult men and women who have the capacity to decide for themselves to draft advance directives so their wishes are respected when they are no longer capable of expressing those wishes.

**Some Hon. Senators:** Hear, hear.

[English]

**Hon. Dennis Glen Patterson:** Honourable senators, having heard and benefited from many thoughtful and impassioned comments from Senate colleagues on Bill C-7, I'm pleased to have this opportunity to present my perspective and convey what I've heard from people in my region of Nunavut.

First, having spoken to some Inuit elders, it is clear that issues around death and dying are not unfamiliar in oral history amongst the majority of Inuit in Nunavut, especially before times of contact, when Inuit groups tended to be nomadic.

The heartbreaking and pragmatic problem of balancing the well-being and survival of the family group conflicted with the family's love for an individual. Family members had to make the agonizing decision to respect the wishes of the elder, who typically asked to be left behind when the group had to move on and the elder did not feel well enough to move on with them.

While this decision was often a brutal one to make, Inuit have a cultural imperative to always respect the wishes of the elder. Renee Fossett wrote about this in her book *In Order to Live Untroubled: Inuit of the Central Arctic, 1550 to 1940*, where she observed:

The Inuit practice of leaving people to die has been misunderstood by being taken out of context. At least one government official noted that in times of community stress, elderly people sometimes voluntarily elect to be left to starve or die of cold. An observer in Labrador in the 1880s, while not disagreeing that voluntary election sometimes took place, had a more profound understanding. At this time of severe food shortage, the old and those weakened by starvation, and unable to move from place to place, were left to their fate. Though should a party be so successful as to capture more food than would supply their immediate wants, they returned at once with food to those they had left behind. Sometimes, the return was too late to save all those who had been left behind. Occurrence of this nature were tragically frequent, but they are not geronticide, abandonment, neglect or in any way uncaring or abusive behaviour.

Colleagues, I have spoken to the Chief of Medical Staff in Nunavut, Francois de Wet, and was told that since the passage of Bill C-14, Nunavut has developed the protocols and capacity to administer MAID anywhere in Nunavut's 25 remote communities, or in its one hospital in Iqaluit, at the discretion of the patient. This is a significant accomplishment given the lack of resident physicians in all but a few communities in Nunavut and the barriers of geography, climate and transportation in our territory. One application has been made, I'm told, but no MAID procedures have yet been undertaken in Nunavut.

This has, however, highlighted an important challenge that I understand still needs to be addressed in Nunavut. Since many persons who would be considered for MAID are unilingual elders, Dr. de Wet tells me that many of the important concepts, such as consent and the need for explanation of the MAID process, are not easily translated into the Inuktitut language. This is complicated by the reality that Nunavut experiences a much higher rate of suicide than anywhere else in Canada. That reality exacerbates the challenge of explaining a process through another

language and clarifying that the MAID process is not similar or in any way akin to suicide, as Senator Kutcher and other witnesses have made clear.

Inuit elders have told me that suicide has never been acceptable in Inuit values. I wish to also say, with respect, in this connection, that I do deplore the careless description of MAID as assisted suicide. I think it is simplistic phrases like this that make it even more difficult to explain the nuances and precautions inherent in MAID, especially across language barriers.

In closing, honourable senators, I offer my observations about the bill before us. Important issues have not been thoroughly addressed in the bill, despite our best efforts during committee study and in amendments during the third reading debate. These issues include the important question of whether MAID should be available to persons afflicted with mental health illnesses and the option of advance directives. I, too, question why we allow patients to make do-not-resuscitate orders but not advance directives.

This heightens the importance of the Department of Justice getting on with the obligatory and now overdue review of Bill C-14. I agree with Senator Tannas's motion, endorsed by this chamber in an amendment, that the review should be overseen by a joint Senate and House of Commons committee, building on the work of the previous joint committee, which I believe did such a very good job reviewing the legislation that preceded Bill C-7. I would recommend that review must also seek and reflect the Crown's obligation to solicit and consider the voices of Indigenous peoples. This has been shown to be a big failing in the government's consultations on Bill C-7.

As I pointed out in debate on this bill last week, consultation has not happened for Inuit in Nunavut. Promises made by the Crown in a modern treaty, The Nunavut Agreement, under section 35 of the Constitution, must no longer be ignored in Nunavut. The honour of the Crown requires nothing less.

Finally, the debate on MAID, like for many other colleagues, has been a personal and emotional one for me. My beloved 97-year-old father lived a very active and independent life until his very last week of life almost two years ago. At that time, cumulative medical afflictions suddenly caused him to be immobile and in great pain and discomfort. In hospital, he asked us family members to relieve him of his pain, whether by pill, injection or otherwise. Consulting with hospital authorities at the time, we found that the requirement to find a physician authorized or willing to administer MAID, the need for a waiting period and other procedural obstacles, meant that we could not honour his request through MAID in a timely manner. Fortunately, a compassionate caregiver was able to help my dad to pass peacefully and without pain within the confines of what was possible in a hospital setting.

• (1820)

Honourable senators, this has impelled me to support measures in Bill C-7 that will reduce, to a degree, the complexity of the procedures set out in the original bill. Everyone who is suffering intolerably, I believe, should have the right to choose to die peacefully and with dignity in a timely manner, compassionately, and in the manner of their choosing.



Thank you, *qujannamiik*.

[Translation]

**Hon. René Cormier:** Honourable senators, I humbly rise to speak at third reading of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). The diversity and soundness of the interventions we heard during our debates are an admirable reflection of the plurality and richness of the experiences and abilities present in this chamber. That expertise is at the service of the sober second thought that we are responsible for bringing to bear on bills from the House of Commons. I thank you for your enlightening contributions, esteemed colleagues, and I thank the bill's sponsor.

[English]

I would also like to thank the many citizens, experts and representatives of groups and organizations who contacted us or testified in committee to share their concerns and possible amendments. Today, considering all the arguments and amendments put forward, I will share with you the challenges I faced throughout the study of this bill and why I will support it.

[Translation]

The objective of Bill C-7 is clear: To amend the Criminal Code to expand access to medical assistance in dying to persons whose natural death is not foreseeable and to respond to *Truchon v. Attorney General of Canada*, a ruling of the Quebec Superior Court.

Despite the clarity of this objective, we have faced a difficult choice from the moment we began studying the bill in this chamber: Whether to limit our analysis solely to expanding MAID to persons whose natural death is not foreseeable, or whether to take into consideration all the variables influencing access to MAID in Canada, including access to health care, support and all other accommodations required by persons living with a serious and incurable mental health issue, disability, illness or condition.

These two approaches should not be mutually exclusive, but we were nevertheless confronted with that choice, especially because the review of MAID required by Bill C-14, which was passed in 2016, had not been done.

A review would have allowed us to conduct a more informed study on expanding access to MAID, with an accurate picture of palliative care across the country and better knowledge about the issue of advance directives. Like most of you, dear colleagues, I regret that the government has not yet launched this review, even though it committed to doing so.

Bill C-7 as presented at first reading contained significant flaws and numerous inconsistencies. In spite of our work, I acknowledge that it still contains a number of flaws and inconsistencies.

From the very beginning, I have felt the government is being cruel by restricting advance consent to individuals whose natural death is foreseeable and by refusing to discuss advance directives.

Fortunately, I am reassured by the Senate's amendments regarding people with neurocognitive disorders, the possibility of advance directives, advance consent for all, the collection of disaggregated data and the implementation of a review committee as soon as possible.

I also sincerely appreciate Senator Kutcher's amendment, which contains a sunset clause, a compromise that would put an 18-month limit on the discriminatory exclusion of people with "mental illness," a term that is not even defined in the current bill.

Of course, dear colleagues, the elected members in the other place will tell us which amendments they deem acceptable, but I believe that the amended bill that we have here, while far from perfect, is better aligned with the current state of the law and the decisions rendered by our courts.

[English]

That said, what to do with the countless legitimate concerns raised by witnesses in committee or by colleagues in this chamber? Some of those concerns may be outside the scope of the bill, but they are nonetheless essential to its implementation.

Our country's failure to deliver adequate health services and to protect the most vulnerable in our society in their suffering and at the end of their lives is alarming. The study of this bill highlights more than ever the flaws in our health care system, the economic and social disparities and the issue of access to services in remote areas. These are all determining factors that could largely explain my doubts about Bill C-7.

[Translation]

Throughout our deliberations, I wondered whether Bill C-7, and Canadian society for that matter, would truly ensure fair and equitable access for all to quality support and health care services, particularly at the end of life.

Does Bill C-7 guarantee equal rights for all patients, whether or not they are at the end of life? Does it guarantee the protection of the physical and psychological integrity of patients and professionals and the full recognition of a patient's right to autonomy and self-determination when it comes to their end of life? Does it guarantee patients who are experiencing enduring and intolerable suffering the freedom to make a conscious and informed choice to end their life?

The answer to these questions is obviously no. There is still a lot of work to do, but beyond the strictly legal and constitutional considerations, it is the ethical considerations that resonated with me, honourable senators, particularly the consideration of the cultural factors that influence the relationship that Canadians have with suffering and death. These cultural factors were addressed in our debates — particularly by Senators Boyer, McCallum and Patterson, whom I thank — and they help us better understand the issues surrounding Canadians' support for medical assistance in dying.

[English]

Colleagues, it is inevitable that any bill dealing with medical assistance in dying remains confrontational, as it forces us to question our relationship with death. In examining this bill, whether its scope is limited or not, we are all confronted with conscious and unconscious biases emanating from our past, our life experiences, our relatives and our culture. Indeed, our relationship to suffering and death is deeply cultural — a reality we cannot deny. The meaning we give to death varies according to societies, cultures and time.

[Translation]

It is not news that Canada is a country built from many cultures that have their similarities and their differences.

The debates surrounding this bill have highlighted the depth of these cultures, and I say that without judgment.

While some have a more Cartesian, more scientific view of suffering and death, others rely on a set of moral, spiritual or religious considerations. All of these positions are valid and worthy of being heard.

That said, in spite of these diverse influences that shape our decisions, be they legal, ethical, moral, cultural or religious, and in spite of the fact that we all belong to a people or a cultural community, our position on medical assistance in dying depends, above all, on the profound, intimate and existential relationship we each have with life and death.

Consequently, as we heard from the many Canadians and witnesses we spoke to, I believe that individuals who are dealing with a serious and incurable illness, condition or disability have the autonomy and right to decide for themselves how they wish to end their days on earth.

I also believe that we need to protect the most vulnerable people in our society while recognizing that they are able to make decisions for themselves if we give them the means and invest the necessary resources.

Lastly, as a citizen of an open and inclusive society, I believe that we are more respectful of one another when we avoid imposing our views on death on others and allow everyone to choose for themselves.

[English]

Colleagues, I agree with the preamble of Bill C-7, which states that we must recognize:

... the need to balance several interests and societal values, including the autonomy of persons who are eligible to receive medical assistance in dying, the protection of vulnerable persons from being induced to end their lives and the important public health issue that suicide represents;

[Translation]

I will conclude my remarks by paying tribute to the determination and courage of Nicole Gladu. In recognition of her love of life, here is an excerpt from what she told *HuffPost* on

November 27, 2019, when she talked about her personal views on life, death and the freedom of choice that she hoped to exercise. I invite you to listen with kindness and compassion. She stated, and I quote:

I make a very great distinction between living and existing. There is energy and tension in living. Existing is passive. A tree exists and grows, but has no will. Whereas living is quite the opposite. I love life too much to settle for what has become mere existence.

• (1830)

Thank you for your attention, esteemed colleagues, and I invite you to support the passage of Bill C-7.

**The Hon. the Speaker pro tempore:** Honourable senators, it is now 6:30 p.m., and pursuant to the order adopted earlier today, the sitting must now be suspended for one hour. The sitting will resume at 7:30 p.m.

(The sitting of the Senate was suspended.)

[English]

(The sitting of the Senate was resumed.)

• (1930)

## CRIMINAL CODE

### BILL TO AMEND—THIRD READING—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Petitclerc, seconded by the Honourable Senator Gold, P.C., for the third reading of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying), as amended.

**Hon. Judith G. Seidman:** Honourable senators, I rise today to speak to the third reading of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying).

The debate around medical assistance in dying continues to test us on some of the biggest issues we might ever be confronted with: the nature of death and dying and the role that personal agency plays in determining one's end-of-life journey. A subject inherently difficult to discuss, it is one shaped by personal beliefs, morals and ethics. It is a conversation that involves courage and is deeply rooted in one's values and lived experiences. It is both personal and societal in nature, those often conflicting even as we explore our own thoughts.

First, language itself helps inform thought. We are all aware of the subtleties of the words we deliberately choose and how they convey not only technical meanings but beliefs as well. Let us take a cursory look at the evolution and terminology used to describe MAID over the last few decades. Terms like "voluntary euthanasia" and "assisted suicide" have gradually been exchanged for "physician-assisted death" and "medical assistance in dying," language that does reflect our ever-evolving society.

In 1994, the Special Senate Committee on Euthanasia and Assisted Suicide examined the wide-ranging and diverse terminology used in Canada and abroad in reference to assisted death and dying. In their final report, they concluded that:

... the differences in the definitions are seldom based on the literal meaning of the terms ...

And argued that:

The disagreement is essentially with respect to the moral significance of the words.

This was proven to be true 20 years later when the Special Joint Committee on Physician-Assisted Dying reviewed the very same terminology once again. Our committee heard from a number of witnesses who discussed the language that should be used in relation to MAID. Some witnesses held the opinion that the terms “physician-assisted suicide” and “voluntary euthanasia” are well-defined and clear and should not be abandoned, while others argued that these terms are stigmatizing.

After careful examination, our joint parliamentary committee concluded that medical assistance in dying was most preferable:

... as it reflects the reality that health care teams, consisting of nurses, pharmacists, and other health care professionals, are also involved in the process of assisted dying.

There were practical as well as legal reasons to use this language.

Over the last few months, Bill C-7 has attracted substantial attention across the country, giving rise to a contentious public debate, just as with Bill C-14. There has been a full range of opinions on the provisions of Bill C-7. Opponents of the legislation have raised serious concerns, calling for tightened safeguards at the very least, while proponents have praised the provisions and declared them an important development, yet not quite enough.

Viewpoints on the most fundamental and challenging questions of MAID are divergent. They always have been and always will be. The argumentation presented in this debate is rarely unreasoned, which makes the task of reaching a consensus on the matter of Bill C-7 more difficult. The personal and societal challenges will not diminish the moral difficulties of this debate for years to come because MAID will always provoke strong and deeply felt reactions. Our own emotionally charged debate in this chamber about matters of constitutionality and morality should not come as a surprise. In fact, ancient philosophy can help us understand the influences behind our decision making as legislators.

Consciously or not, moral philosophy guides our choices and leads us to the most ethically correct resolution in accordance with the ethical theories themselves. One class of ethical theories known as deontology derives from the Greek words for “duty” and “science.” According to this class of theories, a person has the absolute duty to do the right thing, no matter the situation or consequences. Simply put, there are right and wrong actions, and if we follow the rules, we are ethical. If we do not, we are unethical.

As Kant famously wrote in his essay *Groundwork for the Metaphysics of Morals*:

I ought never to act in such a way that I couldn't also will that the maxim on which I act should be a universal law.

In contrast to deontology is consequentialism, which is also known as ends-based thinking or utilitarianism. This class of theories requires a person to weigh the consequences of their actions and choose the one that brings the most good to the most people.

In ethical theories on rights and virtues, we find the Golden Rule and Aristotle's Golden Mean, not to be confused with one other. The Golden Rule is instructive: “Do unto others as you would have them do unto you.” Meanwhile, Aristotle's Golden Mean dictates that a virtuous act is the intermediate between two extremes.

Honourable senators, the reason to remind ourselves of this lesson in moral ethics is to emphasize the depth and conflicts of thought of such decision making that we are faced with here and now.

In his book *How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living*, Rushworth M. Kidder, an American author, ethicist and professor wrote:

... the principles are useful because they give us a way to exercise your moral rationality. They provide different lenses through which to see our dilemmas, different screens to use in assessing them. ...

As human beings, our thinking and perception of the world around us is shaped by our underlying value systems and the ethical framework to which we subscribe. As such, our debate on issues that are inherently values-based, such as MAID, reflects our fundamental differences. Just as Kant, Aristotle and Plato had different ways of rationalizing human reason, we too have similarly different codes of ethics.

In the preface to the first edition of his work *Critique of Pure Reason*, Kant poetically wrote:

Human reason, in one sphere of its cognition, is called upon to consider questions, which it cannot decline, as they are presented by its own nature, but which it cannot answer, as they transcend every faculty of the mind.

It falls into this difficulty without any fault of its own. It begins with principles, which cannot be dispensed with in the field of experience, and the truth and sufficiency of which are, at the same time, insured by experience. With these principles it rises, in obedience to the laws of its own nature, to ever higher and more remote conditions. But it quickly discovers that, in this way, its labours must remain ever incomplete, because new questions never cease to present themselves ...

• (1940)

While these words are difficult to digest, they are nonetheless valuable.

Kant makes an important distinction: the policies and standards that we create as legislators are a product of thoughtful discussion and reflect the wisdom of our collective experiences, but no policy is permanent and all-knowing. We cannot always anticipate questions and situations that may arise in the future.

This is to be expected as there is no such thing as an absolute agreement. It is hard enough to conceptualize morality and ethics, let alone operationalize them in the form of legislation with regard to MAID. Yet, understanding this concept — that human reason is ever evolving, non-absolute — can be a powerful antidote to our uncertainty over the right path forward.

Honourable senators, we have engaged in a lengthy and passionate debate. We have heard witness testimony and read the reports available to us. Now we attempt to find a path forward, through our differences in ethics, morality and values. And while we each possess our own individual codes of ethics, we should remember that what is most important is that we create a foundation — one that balances the autonomy, liberty and dignity of individuals who suffer from grievous and irremediable diseases — while protecting vulnerable individuals; a foundation that will make space for both scientific and emotional realities, as well as the human spirit. This balance should allow Canadians the agency to make decisions based on their own personal codes of ethics and value systems.

Honourable senators, the time has come to move forward in the best interests of Canadians and take an initial step in the long process ahead of us to find solutions to the problems that the issue of MAID will continue to raise for years to come. Thank you.

**Some Hon. Senators:** Hear, hear.

[Translation]

**Hon. Julie Miville-Dechêne:** Esteemed colleagues, we are coming to the end of this difficult debate. In the end, I'm still not completely certain, but I have enough doubts to justify voting against this bill as amended because the risk of premature death is too great and the consequences irreversible.

I came into this with reservations about expanding medical assistance in dying to people with a serious and incurable illness or disability whose end of life was not foreseeable. The fact that the Senate also chose to expand it to individuals whose sole underlying condition is a mental disorder within 18 months troubles me greatly. How can we go forward with this when even psychiatrists disagree as to their ability to determine the trajectory of a mental illness and distinguish the desire to die from a mental disorder?

I really feel for patients who are suffering. I can't claim to know what they are going through. Even so, I can't help but see this expansion of MAID as a social issue that goes beyond a series of individual choices made by patients who want to be free from suffering. Interestingly, an Oregon study revealed that

candidates for euthanasia were more likely to opt for the procedure because of fears about eventually losing their independence and autonomy than because of physical suffering. In Quebec, "inadequate pain control or concern about it" are lumped together, which doesn't give a clear picture of the precise reason for the request.

The bill places a huge responsibility on physicians who will have even more MAID requests to assess. I have a great deal of respect for the medical profession, but, as in all professions, doctors and psychiatrists have varying degrees of experience and expertise. There are also physicians who are overwhelmed, like Dr. Jean Marmoreo, a family physician who provides MAID and believes in it, and who wrote the following in an opinion piece in the *National Post* on February 12, 2021, and I quote:

. . . I disagree with the idea of MAID assessors and providers, doctors like me, being the sole judges of these complex and hard-to-call cases, as we are with more straightforward cases. In fact, given that a patient has years to live, I'd strongly favour a panel or a designated committee assuming the role of second assessor in these cases.

Of course, this would require more time, but shouldn't the burden of such decisions be shared more? Dr. Marmoreo even went so far as to visit a patient in his home to better understand the source of his distress. That is certainly exceptional, but it shows her willingness to properly assess each request.

This bill is designed to respond to a court decision and has completely disregarded the profound inequality in our society. My colleagues Kim Pate and Marilou McPhedran have spoken eloquently about this. As fundamental as an individual's right to choose MAID when death is not foreseeable may be, some will be better equipped than others to exercise this right to choose. My concern, which was echoed by a number of experts, has to do with the difficulty of performing this assessment. How do you know whether a person with a disability or a mental illness has lost hope and wants to die because they did not get the care and services they needed to live with dignity? Once a diagnosis is made, the medical assessor will not be able to do much if they find that a lack of services or care is behind an individual's request for MAID. They will not be able to make guarantees about services, since the quality of these services falls under provincial jurisdiction. The safeguard, as drafted, is vague and does not reassure me at all.

Maryel Bousquet, from Sherbrooke, who wrote to all senators, had a son who died by suicide while he was on five waiting lists for care. Asperger's, autism, she never knew what he had. I want to share the following quote from this mother:

When I hear talk of medical assistance in dying for people with mental illness, I'm appalled. How can anyone even begin to imagine such a thing when patients are being left to die without even being assessed or given any kind of care?

[ Senator Seidman ]

We do not have the luxury of thinking in silos on this issue when other countries have had regimes in place for 18 years and have reported that the criteria that were implemented to prevent abuse were expanded in practice over time.

In Belgium, Dr. Ludo Vanopdenbosch, a member of the Federal Commission for Euthanasia Control and Evaluation, resigned in protest because the majority of his colleagues refused to refer a troubling case to the authorities. It was the case of a patient with dementia who was euthanized without his consent but with the consent of his family. Ironically, the doctor who resigned generally supports euthanasia in the advanced stages of a neurological disease, but he believes that the commission has become an ideological tool that refuses to report violations of the law so as not to harm the practice.

In the Netherlands, a 74-year-old woman with late-stage Alzheimer's was forcibly held down by members of her own family so that the doctor could euthanize her. The patient had signed an advance consent form but, according to the investigation report, the doctor should have stopped the procedure given the patient's agitation, a clear sign that she disagreed with its timing.

In essence, the problem is not always the laws, which may seem reasonable. It's the application of these laws that can be problematic.

Last week, Radio-Canada aired the unbearably sad story of a young man named Benjamin Monière. Benjamin suffered a head injury as a teen and has been imprisoned in his wheelchair ever since. His mother cared for him to the point of exhaustion, then transferred him at the age of 32 to a long-term care facility populated mostly by elderly residents. Benjamin often thought of committing suicide there because the facility didn't meet his needs and condemned him to a life of dependence.

Would he have had access to medical assistance in dying had it been available? We'll never know. Would he have been tempted to do it? Maybe. He did consider using a knife to end his life, which would have been anything but peaceful. However, what comes next shows us that Benjamin found hope because his living conditions changed. His mother took him out of the long-term care home at the start of the pandemic because his condition was declining too rapidly. He's now back home with his mother, who is a farmer, and, most importantly, he'll soon be moving into the special needs housing he's been waiting for for years.

I think we're moving very fast on these life-and-death issues. Why get rid of Bill C-7's 10-day waiting period between the request for MAID and the administration? Ten days isn't a very long time to wait, after all.

• (1950)

We are told that candidates are suffering needlessly while they wait. However, in most cases, there are ways to alleviate the pain, and at the very least, this is a safeguard in the event that a patient changes their mind or gets a last-minute visit from a loved one who sparks the will to live a few months longer. The desire to die can fluctuate, according to the doctors I talked to. The

entire concept of palliative care at home is based on bringing the family together around the patient so that they are surrounded by loved ones in their final moments.

We are expanding assistance in dying even though we have not conducted any study on its administration to those whose death is reasonably foreseeable, as provided for in Bill C-14. That bothers me immensely, and I know that it bothers many of you as well. We have been given some reassuring figures on the fact that palliative care was provided or offered to candidates for MAID, but the checks I made with Quebec's commission on end-of-life care indicate that the data are not very reliable as far as what is defined as palliative care.

In my view, the government will have to fund independent expert studies in order to go beyond talk and assess what is happening on the ground, with no ideological bias.

I realize I am in the minority. Expanding medical assistance in dying seems inevitable. We therefore have the moral obligation to make life less difficult and more bearable for all those who need services and care to which they do not have access. Thank you.

**Some Hon. Senators:** Hear, hear.

[English]

**Hon. Paula Simons:** Honourable senators, this evening I want to remind Canadians of some history. Sue Rodriguez was a vibrant, outgoing woman, an athlete who loved hiking, cross-country skiing and gardening, an active mother to a little boy named Cole. She received her diagnosis of amyotrophic lateral sclerosis, what we used to call Lou Gehrig's disease, a few days after her forty-first birthday. The degenerative disease affects everyone differently, but in her case it hit fast and hard, leaving her virtually no control over her body, affecting her speech, taking away from her all the things that made her life precious, including her ability to care for her boy.

So she decided she didn't want to wait for ALS to take her life. She asked the courts for the right to a physician-assisted death, taking her fight all the way to the Supreme Court of Canada. In 1993, that case divided the country and it divided the court. Rodriguez lost narrowly by a vote of 5-4, but even that did not defeat her.

On February 12, 1994, with the help of an anonymous physician and the support of her friend, parliamentarian Svend Robinson, Sue Rodriguez died on her own terms. "If I cannot give consent to my own death, whose body is this?" Rodriguez once asked. "Who owns my life?" "Whose life is it anyway?" For her, the answer was clear: her body, her life, her death, her choice.

Kathleen Carter, known to her friends as Kay, was a retired teacher, an avid traveller, a mother of seven. She was living in a retirement home in Lynn Valley, British Columbia, when she was diagnosed with a painful, progressive neurological condition called spinal stenosis. "The doctor said I would end up flat in a bed, unable even to blow my nose," Kay Carter wrote. She described the condition as her body collapsing in on itself.

In January of 2010, unable to access medical assistance in dying in Canada, the 89-year-old woman elected instead to travel to Zurich, Switzerland, so she could obtain the medical care that was denied to her here.

Gloria Taylor was a devout Christian, deeply involved with her United Church community and a lover of Harley-Davidson motorcycles. A mother and grandmother, she was working at a residential care facility for those with developmental disabilities in the Okanagan, when she was diagnosed with amyotrophic lateral sclerosis. "I'm a positive thinker," she once told a reporter.

I look for the beauty in life. But I'm not afraid of talking about dying. It's part of living. I have no trouble accepting that.

But Taylor, too, wanted to die on her own terms. So, along with the family of Kay Carter, she lent her name to a case brought by the British Columbia Civil Liberties Association, another constitutional challenge of the law against medical assistance in dying. Taylor won her case in the B.C. Supreme Court and the B.C. Court of Appeal. But in bleak irony, she died of complications from a perforated colon while her case was pending appeal to the Supreme Court of Canada. She was 64.

Sue Rodriguez, Kay Carter, Gloria Taylor — none of them were facing imminent death. Let's remember that because it's the crux of this whole argument. In 2015, the Supreme Court of Canada ruled on the case where Gloria Taylor and Kay Carter's families were named as the plaintiffs. The court did not hedge. Their ruling was clear. The court held that the criminalizations of medical assistance in dying unjustifiably infringed section 7 of the Charter and were of no force and effect if they prohibited a physician-assisted death for a competent adult person who clearly consents to the termination of life and has a grievous and irremediable medical condition, including an illness, disease or disability that causes enduring suffering that is intolerable in the circumstances of his or her condition.

Let's break that down, shall we? The person involved must be competent. That means they must have the necessary mental capacity to make their own legal and medical decisions. The person must clearly consent. There must be no coercion and no possibility of misunderstanding. The person must have a grave, untreatable, incurable medical condition, be it a disease, a chronic progressive illness or a serious disability that causes enduring suffering — not temporary discomfort, not inconvenience, but real and permanent physical and emotional suffering.

And finally, the suffering must be intolerable to that individual, that specific person, in their own personal circumstances. In other words, what might be intolerable to you might not be intolerable to me or to my cousin or to my neighbour. The court recognized that only we can say for ourselves what we are able to tolerate.

The court did not say that physician assistance was only for people who were actually dying. No. They specifically said that MAID was for people just like Kay Carter and just like Gloria Taylor and just like Sue Rodriguez, people whose disabling conditions made their lives so horrific to them that they wanted

to die with as much dignity and comfort as possible; people who wanted one final chance to exercise agency after so much agency had been taken from them. Despite that, Canadian law has never yet conformed with the terms of the *Carter* ruling, and that is the whole point of Bill C-7: to bring the law into alignment with the rights enumerated by the Supreme Court in 2015. We are finally doing what the court asked us to do.

In no way do I wish to discount or dismiss the concerns many of my colleagues have raised about this legislation. Senator Pate is absolutely right. It is a national shame that it may be easier for upper-middle-class White people to receive MAID than it is for poor people of colour to get decent medical care. In a country that likes to pride itself on its universal health care system, we still have a long way to go to ensure true universality, especially for those who are homeless, incarcerated or struggling with addiction. Every study of the social determinants of health tells us that poverty itself is a cause of illness, and until we confront the inequity in this country our health care system will never work the way it was intended.

Senator Batters is absolutely right. Our country does not offer nearly enough resources or treatment for those with mental illness, particularly depression. We should all share her outrage that it can take months, if not years, to get a proper psychiatric referral, and it would be a grotesque perversion of medical assistance in dying indeed if it were misused as a treatment for suicidal ideation.

Senators McPhedran and Miville-Dechéne are absolutely right. People living with disabilities may well feel pressured, coerced or bullied into medical assistance in dying or, more subtly, they may feel their lives and their human rights are diminished by a widespread cultural acceptance of MAID.

I repeat what I said last week: We must stand together as senators to fight for the rights of Canadians with disabilities to full and equal participation in their communities, and for the economic, social and medical supports they need — and to which they are entitled — to live their lives to the fullest with dignity and joy. But MAID isn't about taking away the rights of people with disabilities. It's about empowering anyone with a disabling condition that causes enduring, intolerable suffering, about giving them choice, free agency and control.

• (2000)

Senators McCallum, Christmas and Boyer are also right. It would be a moral outrage if First Nations, Inuit and Métis Canadians — who already face such documented prejudice in our medical system — were victimized by MAID, whether they were pressured into asking for it, or whether they were denied timely access because doctors and nurse practitioners who offer medical assistance in dying were not available to them because of distance and geography.

We need health care providers who are sensitive to Indigenous culture, spirituality and history. We also need to ensure Aboriginal Canadians, including those in rural and Northern Canada, have access to the full range of health services other Canadians take for granted, including MAID.

Senator Plett is right to raise the issue of conscience. Freedom of religion is a Charter-protected right in our country. Because Bill C-7 amends the Criminal Code, it is not an appropriate place to add conscience rights. We don't want to criminalize or recriminalize elements of the provision of MAID. Instead, the provinces, which administer health law, and the colleges of physicians and surgeons and the colleges of nursing, which regulate the work of doctors and nurse practitioners, must strike the right balance. Health care providers should not be pushed or pressured into providing MAID if that violates their spiritual faith or moral principles. But we also don't want to leave patients, especially in rural or remote areas, unable to receive medical assistance in dying in a timely and comfortable fashion. We must counterpoise the legitimate conscience rights of medical professionals and the equality rights of suffering patients who want to exercise their civil and personal liberties.

Whichever side of this debate we are on, we surely all agree on this: We need a public health care system that is more accessible, more equitable and more responsive to the individual needs of individual Canadians. We need a system that puts the needs and wishes of patients first, without subordinating those needs and wishes to political ideology or economic expediency. And we need to put the protection of the rights of the vulnerable at the centre of our decision making. That includes the rights of those who want to live as long and as comfortably as possible, and the rights of those who have decided of their own free will and with clear, competent resolve that their grave, irremediable, enduring suffering is intolerable to them. Because what, after all, could be more ableist than forcing people to live in hopeless agony and fear because we think we better know what health care they need and how they should spend their final days?

[Translation]

Senator Petitclerc, Senator Carignan and Senator Cormier were all correct to point out that Bill C-7 is about hope. It is about giving people the independence, freedom and self-determination they want.

[English]

This debate is so painful precisely because it forces all of us to confront our own mortality and our own morality; to face our own fear of loss and our deep fear of loss of control.

As many of my Senate colleagues have said before me, I thank all of you from every corner of the country and every group in this chamber for engaging in this essential existential debate with both passion and compassion, with thoughtful legal reasoning and careful public policy analysis. I'm grateful to everyone who drew from their own life experience — often intensely painful personal life experience — to speak to this bill. But this evening, I call upon us to do our duty and live up to the expectations which the Supreme Court of Canada placed upon us in 2015 — to give Canadians their Charter right and their *Carter* right to their freedom to die with dignity when their time comes.

Sue Rodriguez, Kay Carter, Gloria Taylor; they were Canadian heroines, Canadian champions. They were not weak. They were not cowards. They were not quitters. They were strong and brave

and dauntless. They were women of valour. May their memories forever be a blessing to their families and to our nation. And now let us honour their courage and sacrifice.

[Translation]

We also salute the courage of Nicole Gladu and Jean Truchon.

[English]

Let us keep our promises and support Bill C-7 as amended. Thank you. *Hiy hiy.*

[Translation]

**Hon. Lucie Moncion:** Honourable senators, I rise today to add my remarks on Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). I want to share my perspective on the matter with you, my esteemed colleagues.

By introducing Bill C-7, the federal government is seeking to rectify a discriminatory provision that is contrary to constitutional guarantees within its jurisdiction.

Bill C-7 will expand access to MAID to those whose natural death is not reasonably foreseeable. The question of expanding access to this category of individuals must be studied carefully and compassionately, and it is a task that everyone in this chamber has undertaken very seriously.

I would like to thank my colleagues for each of their interventions, which were all of the highest quality and always very sincere. They served to enrich and deepen the public debate on the issue of medical assistance in dying.

[English]

First, I'd like to refocus the debate on the purpose of the bill, in order to establish the legislator's intent. The purpose of Bill C-7 is to grant the right to die with dignity to people whose suffering can't be alleviated under conditions that they consider acceptable, without regard to the discriminatory criterion of reasonably foreseeable death.

In doing so, the government is responding to the Superior Court of Quebec's decision in the 2019 *Truchon* case, in which the court ruled the criterion unconstitutional. The Senate did the same by proposing an amendment to Bill C-14 in 2016.

[Translation]

In addition to the case law and our questions about the validity of the reasonably foreseeable death criterion, there is the element of suffering. It is why we believe this legislative amendment is important, because this criterion is the one commonality for persons eligible for MAID under both legislative regimes, that is Bills C-14 and C-7. It is discriminatory and even cruel, as the court stated in *Carter*, to deny people condemned to a life of acute, intolerable and irremediable suffering the right to die with dignity.

I would like to read a few excerpts from a letter included in the book by Paul-François Sylvestre entitled *Ma jumelle m'a quitté dans la dignité*. The letter was written by Paulette Sylvestre Marisi on April 11, 2016. In this letter, Ms. Marisi asks the Dignitas clinic in Zurich, Switzerland, for permission to travel there to receive MAID.

I quote:

I am formally requesting your assistance in obtaining MAID at your clinic. This is not an impulsive gesture on my part, but rather a strategy that has taken shape over the years and planned accordingly. I truly thank Dignitas for being there and Canada for seriously considering MAID.

She continues:

Put quite simply, I have had enough, even too much. I have lived with multiple sclerosis for 45 years, and there has been a steady decline in my condition over the past five years.

Everything is difficult, too difficult.

She continued as follows:

I'm severely incontinent, despite using Detrol, I require enemas to move my bowels, I have to irrigate my sinuses three times a day to open them up and expel mucus, I use a wheelchair, I'm constantly exhausted, I hurt everywhere all the time, I often have a fever, the medications I'm prescribed make my brain foggy, I've lost my autonomy. . . .

Right now, my entire life consists in travelling from one therapy to the next in the hopes of managing pain and clinging to a shred of mobility. This is not living. It's not the life I used to embrace. . . .

I so desperately want to put an end to the constant pain I feel throughout my body, the searing pain shooting through my neck, head and back, despite the morphine, steroids and marijuana. I want to put an end to the humiliation that comes with incontinence, the pain of severe constipation, the boredom of being trapped, the futility of a future without any hope of improvement. I lived my life to the fullest and, because I did so, I feel I can surrender peacefully, with serenity, with a sense of accomplishment and with dignity. Every day I lose more of my dignity. My life is now one humiliating experience after another. I am horrified at the very thought of having someone who will change my diapers, spoon-feed me, restrict my use of marijuana and roll me onto the porch to be forgotten for the rest of the afternoon. . . .

I want to die with dignity.

• (2010)

Paulette Sylvestre Marisi received that assistance on August 18, 2016. She chose to die in dignity rather than continue to live in pain. Bill C-7, which is currently before us, was designed to address the needs of people like Ms. Marisi.

Honourable senators, this is a difficult debate.

[English]

We're faced with the dilemma of having to choose between our personal beliefs or biases, and of allowing people to choose between life and death. However, our work as senators would be hollow if difficult issues were always referred to the courts. The dialogue between the courts and legislators requires us to take a stand today by expressing our views in this major societal debate. I believe that we should support Bill C-7. At its core, the bill seeks to ensure respect for the constitutional rights of Canadians to die with dignity, in keeping with the right to life, liberty and the security of the person and the right to equality set out in sections 7 and 15 of the Canadian Charter of Rights and Freedoms.

[Translation]

I strongly support the bill in its current form with the amendments that were adopted by the Senate. I hope that the other place will grant this chamber the deference it deserves as we continue to diligently provide sober second thought in legislation.

However, I have some concerns about the amendment to allow advance medical directives, which I believe should be examined more thoroughly as part of the review of Bill C-14, which will begin soon.

I will close by echoing the completely legitimate concerns expressed by some of my colleagues.

Just as medical assistance in dying must be made available to those who are eligible, the right to life is a fundamental right. However, Canadians are not able to exercise this right equally. It is difficult for some people to exercise this right because of a lack of access to health care services.

[English]

We obviously know that health care services, including long-term care, are primarily a provincial responsibility. In this regard, Canadian federalism presents several challenges in terms of a coordinated national strategy to address these significant and pressing issues. However, these shortcomings should not be used as grounds for denying individuals their basic rights. The Constitution must be read as a whole. Jurisdictional issues come into play alongside the basic rights and freedoms of Canadians.

I am calling on the leadership of the federal government. By expanding access to medical assistance in dying, the federal government is inheriting an especially important responsibility in the health care field. The federal government must act to help the provinces overcome the challenges of providing suitable and appropriate health care services for everyone, everywhere.



[Translation]

Thank you for your attention.

[English]

**Hon. Margaret Dawn Anderson:** Honourable senators, I rise in the Senate today to speak to Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). I want to acknowledge that today I speak from my home community of Tuktoyaktuk, Northwest Territories, on the settled land claim territory of the Inuvialuit.

I have listened to the impassioned speeches and words of my colleagues on this important bill that affects all Canadians. My fear is that this bill, like some other bills, will disproportionately affect the North, Indigenous peoples, minority groups and vulnerable populations. I would be remiss not to add my voice and the voices of those whom I represent in the North.

I note that when some individuals speak to this bill they speak of the right to die or dying with dignity. I would like to change that narrative and speak to the right to live and living with dignity. Life expectancy in all three territories is the lowest in Canada. According to Statistics Canada in 2019, the Yukon life expectancy is 79 years, and Nunavut is the lowest in Canada at 71 years. The Northwest Territories is 77.4 years, and was the only province or territory in Canada to see a decline of 0.4 years in life expectancy.

As Bill C-7 is closely linked to the medical profession, I think it is important to share some facts about the Northwest Territories according to the *NWT Health and Social Services System Annual Report* from 2019-20. At the time of the report, the vacancy rate of family practitioners was 37%, and the vacancy rate of specialists was 17%. According to the report:

Physicians are key components of the NWT HSS system. Vacancies in these positions significantly impact the capacity of health and social services system.

Patient experience questionnaires completed in the NWT found that 81% of the respondents rated care as good or excellent. Since 2004, when care was rated at 96%, the number of patients who rate their care as good or excellent continues to show a consistent decline in the ratings. The latest rating is the lowest since 2004.

Between 2013-14 and 2019-20, the number of new long-term care clients — those still on the waiting list from the prior year, plus those applying in the current year — increased by 3%. Individuals awaiting long-term care are sometimes placed in acute care beds in a hospital at greater cost to the health care system. It is noted that long-term care facilities have been running near full occupancy in recent years and demand for long-term care services has been increasing.

Although the rate of avoidable deaths due to treatable causes has dropped from an average of around 14 deaths per 10,000 in the 1980s to an average of around 10 deaths per 10,000 in the last 10 years:

The NWT has a higher rate of avoidable deaths due to treatable conditions than the national average — 8.9 versus 6.7 per 10,000 (2015-2017).

The rate of hospitalizations for mental health has been trending upwards over the last 16 years. Alcohol and drug use and dependency represent just under half of all mental health hospitalizations. Between 2015-16 and 2019-20, mood disorders, schizophrenia, psychotic disorders and stress and adjustment disorders accounted for the remainder of almost 9 out of 10 mental health hospitalizations. The NWT's overall mental health hospitalization rate is over twice the Western Canadian average. Compared to Western Canadian rates, the NWT has rates four times higher for alcohol and drug hospitalizations and rates three times higher for stress and adjustment disorders. It is clear from these facts that the Northwest Territories struggles to provide adequate health care services and quality of care to its residents.

In the NWT, we are very aware of the gaps in the provision of health care services. A sign posted in the Inuvik Regional Hospital waiting room in Inuvik, which provides hospital services to the seven communities of the Beaufort Delta Region, advises that all referrals to specialists are reviewed by the specialist immediately in the case of an urgent referral or within a week if it is deemed non-urgent. Accordingly, for non-urgent referrals, the average wait time to see a specialist is as follows: for an eye team, one to two months; for pediatrics, orthopedics, internal medicine, general surgery and gynecology, six months to one year; to see an ear, nose and throat specialist, you are looking at a wait time of one to three years.

Here in the Senate, we have debated the wait time of 10 days for MAID, which some argue is too long. Perhaps we need to consider the wait times for other types of medical care, treatment and services to ensure that those individuals have the same opportunity to live with dignity.

• (2020)

We have three hospitals within the Northwest Territories, and the remainder of our 33 communities are serviced by health centres and staffed with nurses. We have 11 official languages, and 50% of the population is Indigenous. There is systemic racism within the health care system in Canada, and this affects us in the North. Non-Insured Health Benefits or NIHB, which has the authority to provide treatment and provision of services to Indigenous peoples, has a complex approval and pre-approval system which poses challenges for those requiring medication and treatment, both in the territory and across Canada.

While I have focused my remarks today on the provision of health care, the communities and individuals in the N.W.T. also continue to face issues around housing, food security, systemic racism, a high rate of crime and education.

What does all this mean for the application of MAID in the N.W.T., where the current family physician vacancy rate is 37%; life expectancy sits at 77.4 years, a rate comparable to Bosnia and Herzegovina; where we lead or fall negatively in key areas of health and wellness indicators; where waiting times for identified non-urgent care is months to years? I do not have the answer. I do note that other Canadian, provincial and territorial legislation does disproportionately affect Indigenous minorities and vulnerable persons. It is my fear that Bill C-7 will also be one of those bills.

Colleagues, the discussions we have had around Bill C-7 highlight for me the disparities that exist in the provision of health care across Canada, in particular for Indigenous peoples. It is difficult for me to understand how Bill C-7 can be applied equitably and fairly across the country when we do not have the same level of service or standard of living for all.

Honourable senators, I believe that when we look at legislation that applies to all Canadians, the realities and challenges of the North, Indigenous peoples, and minority and vulnerable populations must not be lost, diminished or forgotten. It is imperative that we ensure that if we support the right to die with dignity for all, that we also ensure the right to live with dignity for all Canadians.

*Quyanainni. Quana.* Thank you.

**Hon. Jim Munson:** Honourable senators, nothing really prepares you for this kind of debate, even the debate that we had a few years ago. I do find this very tough. It's such a sensitive issue.

I rise today to speak at third reading on Bill C-7. Throughout my research on MAID, like many of you, I sought answers to my questions by reading news articles, reports and hearing heartfelt testimony at the Legal Affairs Committee.

When we first started to discuss expanding the medical assistance in dying regime, the first group to reach out to me was the disability community. Many of the same concerns we heard mentioned by over 90 disability groups, such as safeguards, access to resources and human rights, are at the forefront of my mind with this legislation. For these groups, it is having the right to live in dignity.

However, I also believe in MAID. I have great respect for Nicole Gladu and Jean Truchon, the two disabled Quebecers who brought their cases before the courts in fighting for their right to die with dignity. My heart aches every time I hear of someone making a decision to die with dignity. I firmly believe in physician-assisted death and the many safeguards in place to assist those who choose to die with dignity.

My heart also aches for those in the disability community who believe this bill makes it easier for those who are disabled to choose death over life. There are those in the community on both sides of the debate, and we must be respectful and very sensitive to every view.

On one side, there are the views of former Senator Jim Cowan. Jim is with Dying with Dignity Canada. He says it's worth reading the words of Justice Baudouin in the *Truchon* decision. She said:

The vulnerability of a person requesting medical assistance in dying must be assessed exclusively on a case-by-case basis, according to the characteristics of the person and not based on a reference group of so-called "vulnerable persons." . . . the patient's ability to understand and to consent is ultimately the decisive factor, in addition to the other legal criteria.

Although imperfect in many ways, the intent of this bill is not to have people with disabilities choose this option. It is to bring a compassionate ending for those who are experiencing intolerable suffering.

I feel it's important to add my voice, as we look ahead to our vote on the bill, to echo the work we still need to do to improve the lives of persons with disabilities. I have worked all my Senate life fighting for disability rights. I cannot stress enough that the government must do more for those who are disabled to choose life.

This bill is a wake-up call for the federal government to do more in the areas of palliative care and other health supports.

In the Senate's Legal Affairs Committee, Carla Qualtrough, Minister of Employment, Workforce Development and Disability Inclusion, expressed grave concerns over what she called unprovoked MAID, medical assistance in dying. In her comments, she linked this idea to the case of Roger Foley, a 45-year-old with a neurodegenerative condition that has left him hospitalized, unable to move or care for himself.

Mr. Foley's testimony as a witness in committee in the other place indicated that he was pressured by hospital staff to seek an assisted death when he asked for home care. Minister Qualtrough echoed this call for increased access to services for persons with disabilities when she said, ". . . I can tell you, he's not alone." She mentioned that she hears from people who discovered that a family member with a disability has been offered unprovoked MAID on a regular basis.

This speaks to the underlying systemic discrimination that we must talk about and rectify in this country. It is important to underline that there is a lot of work to do on improving assisted living resources. For example, palliative care and long-term care remain missing from the Canada Health Act.

Do you remember the Social Affairs, Science and Technology Committee report? Witnesses suggested that federal legislation should require mandatory accreditation of long-term care homes, as well as national standards for equal access and consistent

quality in long-term care homes across Canada. Canada still spends significantly less of its gross domestic product on long-term care homes than many other countries. There needs to be major change.

So as we catch our breath from having this extremely sensitive debate together, it is vital for us to have as much well-informed data as possible, because it enables us to cast a vote worthy of this chamber; a vote on sober second thought.

That being said, there are a few additional complexities here regarding human rights that are important for me to have on the record. It really means a great deal to the international community to have their concerns on the record as well. This is the view that they have.

The letter sent to the government by three UN Special Rapporteurs represents the voices of three unique thematic groups: the rights of persons with disabilities, the enjoyment of all human rights by older persons, and extreme poverty and human rights.

In the different roles of each Special Rapporteur, the purpose of their letter was specifically to address concerns over the removal of a current MAID requirement, where the patient's natural death is reasonably foreseeable; one of the major concerns with reasonable foreseeability being the act of how it might be applied in practice.

• (2030)

For your consideration, the letter from the UN rapporteur mentions ways this might happen:

In particular, there is a real risk that those without adequate support networks of friends and family, in older age, living in poverty or who may be further marginalized by their racialized indigenous, gender identity or other status, will be more vulnerable being induced to access MAiD.

For the UN rapporteur, this is one of the main concerns in the bill that relates to the human rights of persons with disabilities. We know that marginalization complicates equal accesses to resources. Therefore, we have to get this right.

For me, the most pressing concern that the letter highlights is that these vulnerabilities that could induce access to MAID compound in many areas. Social stigma, such as ableism, is also mentioned as a factor. When intersecting margins collide, the reality of being coerced is very real.

Ultimately, the letter seeks further information from the government in response by requesting an explanation as to how the current bill, configured as it is, does not subtly or indirectly reinforce ableist assumptions, contrary to Article 8, combined with Articles 4 and 5, of the UN convention. It calls for an explanation of measures taken to consult closely with representative organizations of people with disabilities and older persons when developing, adopting and implementing the new national policy on medical assistance in dying. Additionally, it calls for further specification on the extent to which the government considered alternative approaches to wording to

avoid impaling or reinforcing ableist and ageist assumptions contrary to these vulnerable positions. This is what we are trying to do right here, right now.

One of the other areas I found very helpful for understanding some of these complexities were the webinars that expressed perspectives outside of committee. One of the webinars, co-hosted by Disability Justice Network of Ontario, or DJNO; Inclusion Canada; the DisAbled Women's Network of Canada, or DAWN Canada; and Independent Living Canada, focused on those on the margins. Their discussions stuck with me. This webinar hosted on February 1 included the anonymous voice of someone with a disability currently going through the MAID process. The final question asked was this: What supports would you like to see in Canada for persons with disabilities to combat the increased suicidality that makes them more likely to choose MAID? The answer from the anonymous MAID applicant was a simple one: If people can afford their food, medicines, rents and bills, there is no need for assisted suicide, but until rates are raised, even if Bill C-7 were removed, the need for suicide remains.

I want to highlight these concerns; they're important. I want the government to pay attention to these concerns so they can do something in the upcoming budget soon by initiating programs and protecting the rights of those with disabilities. It is really important.

But as I fight for those with disabilities, I have to respect those whose actions brought the bill to this stage in the first place. The names of Nicole Gladu and Jean Truchon cannot be forgotten in this debate, nor can the name Sue Rodriguez. They are very brave. They had great courage.

For some, Bill C-7 is a road too far; for others, Bill C-7 is a road to liberation from the intolerable pain of living. For me, Bill C-7 does recognize the significant role that social, mental health, disability and community support services play in the full realization of equal rights.

Honourable senators, I listened closely to the words of Senator Chantal Petitclerc and the suffering she endured as a child. It was a very emotional moment here today. It is not easy being a sponsor of a bill. It is a tough road, but I have the highest admiration for Senator Petitclerc as sponsor of Bill C-7. I know in her heart she is trying to find the right balance, and she deserves our respect.

We know that the Accessible Canada Act sets out the guiding principles of Bill C-7, which include that everyone must be treated with dignity; everyone must have meaningful options and be free to make their own choices; and everyone must have the same opportunity to make for themselves the lives that they are able and wish to have, regardless of their disabilities.

Honourable senators, in closing, this is the opportunity that the government needs to truly become a trailblazer in the area of human rights for people with disabilities. Is this the debate that is pointing the way for the government to reinvent its policy agenda and its commitment to the human rights of people with disabilities? I think this is an open invitation to rethink the way that people with disabilities can live, thrive and lead productive lives as Canadians. While I have my worries about the bill, I must, at the end of the day, listen carefully to the voices of Nicole Gladu and Jean Truchon. Theirs is a Charter right and an individual right, and I will vote for the amended bill.

Thank you.

**Hon. Donna Dasko:** Honourable senators, I rise today to speak at third reading of Bill C-7, An Act to amend the Criminal Code (medical assistance in dying).

I would like to thank the sponsor of the bill, Senator Petitsclerc, the witnesses who appeared before Senate and House committees, and the Canadians who have made their views known in consultations, correspondence and many other ways. The Senate itself has played a special role by offering sober second thought to this issue. I thank all senators. For me, it is an honour to be part of this debate today.

I also want to recognize and thank my friend and journalist Sandra Martin for her award-winning book entitled *A Good Death*, published in 2016. It chronicles the journey toward a good death in Canada and gives voice to the many Canadian heroes who told their stories, hoping to change the Criminal Code prohibition against assisted dying — people like Sue Rodriguez, Gloria Taylor and Kay Carter who went all the way to the Supreme Court of Canada; as well as others like Dr. Donald Low, the Toronto microbiologist, who implored his fellow physicians to accept dying with dignity; Austin Bastable, who was the first Canadian to go to the United States to have assisted death; and Gillian Bennett, whose letter urging a change in the law was released after her suicide.

We should understand, senators, that medical assistance in dying is not something imposed on Canadian society by the government or by the courts; instead, it is a movement emerging from these and so many others who came forward over three decades to call for a way to die with dignity at a time of their own choosing to alleviate tremendous pain and suffering.

We should also understand that these demands reflect a profound evolution of social values that have shaped Canadian society over many decades. When I was growing up in the 1950s and 1960s, assistance in dying was unthinkable. It was a view reinforced by religious and legal sanctions. But all of that changed as a result of the growing influence of the baby-boomer generation. This generation's values, suspicion of authority, a desire to control their own destiny, and a desire for respect and recognition eventually came to dominate through the decades of the 1970s and beyond.

It is this wish to control our fate, sometimes described as the desire for autonomy and for agency, that lies at the heart of this issue.

In 1992, Sue Rodriguez asked: “. . . whose body is this? Who owns my life?” The answer was already clear — at least to Canadians, if not to our governments and courts. The public has always been ahead of their governments and courts in calling for change when it comes to assisted death.

• (2040)

Back in 1992, Environics Research found that two thirds of Canadians said they supported euthanasia, which was the terminology of the day, as Senator Seidman reminded us just a few minutes ago. In 1994, 69% of Canadians told Environics that, in their view, those who assist in the suicide of a seriously ill patient should not be charged with a crime. Yet, contemporaneous with these beliefs in 1993, the Supreme Court of Canada turned back Sue Rodriguez's appeal for assisted death. Subsequent efforts by lawmakers failed to achieve reform despite public support for change.

Even today, after *Carter* and after Bill C-14 and looking at the bill before us now, the government still appears unwilling to go quite as far as the public themselves would take us.

In my own deliberations on Bill C-7, I have focused on two concerns: the difficult issues concerning people suffering from dementia and those suffering from mental illness. Colleagues, my mother died of Alzheimer's and died from its effects, and I will never forget her descent into darkness, her fear and profound sadness.

In considering my vote on Bill C-7, and particularly on Senator Wallin's amendment, I tried to think about what would be best for my mom and for many people afflicted with these terrible diseases. The answer did not come easily. Well, nothing comes easily when it comes to medical assistance in dying.

I was moved by the discussion I had with Lisa Poole, and Mary Beth Wighton from Dementia Advocacy Canada several weeks ago. Both had lived experience with dementia and providing care for loved ones with dementia. They told me that cruel, inhumane and degrading treatment is a consuming fear for many with a diagnosis of dementia and that the fear of how they will be treated after losing capacity inhibits them from living the best life possible. They told me that by removing the requirement that death be reasonably foreseeable, and allowing people to set out individual timelines ahead of time to receive medical assistance in dying based on the observable progression of the condition, would greatly improve the end-of-life experiences of those with dementia.

Open timelines are also supported by the Canadian Association of MAID Assessors and Providers, as well as by a majority of Canadians. In an Ipsos poll, 82% of the public felt that those diagnosed with Alzheimer's and other forms of dementia should be able to plan ahead for medical assistance in dying. This consensus was echoed as well in the Department of Justice online consultation on MAID, where a total of more than 235,000 people — about 79 per cent of those participating in the consultation — supported advanced planning.

Yet again, Canadians themselves are ahead of their lawmakers in supporting change with respect to medical assistance in dying.

Senator Wallin's amendment is clearly focused on the acceptance of these so-called advance requests. At the same time, the Senate itself, including the Standing Senate Committee on Legal and Constitutional Affairs, did not examine this topic in great depth, including the potential safeguards that might exist or possibly should exist around this practice. This is regrettable. I think we need more examination of advance requests, but in the end I came to the conclusion that Senator Wallin's amendment was a step in the right direction, and I supported it in the hope of it advancing the study and consideration of advance requests.

My other area of concern has been the exclusion of MAID for those with mental illness, an issue that we in the chamber proposed to remedy by passing the amendment proposed by Senator Kutcher. Colleagues, we have had much discussion on this topic which I will not repeat here. My concerns with the exclusion were well articulated by Mr. David Roberge of the Canadian Bar Association during his testimony at the House of Commons Standing Committee on Justice and Human Rights. He said:

The issue . . . with excluding all persons with mental illness from the MAID legislation is that it is contrary to what the Truchon decision has concluded, inferring vulnerability on a collective basis, in reference to a group seen as vulnerable people . . . we support a more patient-centric approach.

Senator Kutcher used three words to summarize his view of the exclusion: it is discriminatory, it is stigmatizing and it is not constitutional.

I think the sunset clause strikes the right balance at this point in time. In supporting these and other accepted amendments to expand MAID, I fully recognize and respect the views of so many Canadians, especially those in the disability community who are fearful about what Bill C-7 will bring. I also understand that the most restrictive aspects of this legislation are the government's efforts to answer such concerns.

Colleagues, Bill C-7 is a point on an arc, a work in progress, but as amended it is a vital step toward achieving better outcomes for Canadians as they near the end of life. It reflects the direction that they favour. I support the amended bill and I look forward to the government's response. Thank you. *Meegweetch.*

**Hon. Stan Kutcher:** Honourable senators, I rise to speak to the amended Bill C-7 and to voice my support for it. This has been a challenging and complicated process. It has engendered great emotion and, for many of us, myself included, substantial personal anguish.

I think we've done our job, which is in large part to improve legislation that comes before us. In my opinion, this version of Bill C-7 is better for our work. I am humbled that the sunset clause amendment will be included and I thank all those who supported it.

In addition to the points I made at third reading, there are also a few other things I have been pondering with regard to the importance of removing mental illness as a sole underlying condition. I would like to share those with you now.

But, first, let me acknowledge that during our study of Bill C-7, yet again, we have been reminded that the country that we call home is not as equal and respectful of all its citizens as it should be. Our study of Bill C-7 has, once again, highlighted some of the persistent inequalities, systemic racism and uneven distribution of resources that continues to leave many of our friends and neighbours outside of the bounty that our country allows for others.

We've heard of ongoing struggles experienced by people living with disabilities and those with severe, intolerable suffering — be the source of that suffering physical or mental — and the lack of resources that can provide a better standard of life and perhaps even modify the severity of that suffering.

I was pleased that so many members of this chamber spoke strongly in support of the need to do something about these challenges to ensure that all people in this country can live with dignity. We must work hard to move these words into effective action. I hope that we all act to do so, to improve the health, equality, safety and security of all Canadians. And we should also acknowledge that wanting to die with dignity and needing to live with dignity should not be mutually exclusive.

Today I ask all those who brought their concerns to us to watch us carefully, to hold us to account in the next months and years. Remember what we have said during these debates, and remind us if we forget to continue this support.

• (2050)

Our study of and debates on Bill C-7 have been highly emotional, vigorous and challenging. This is not surprising given the topics this bill has touched. It is, after all, about life and dying. It heralds a substantive and significant change in our historic development of our social mores, and such change should not come easily. For those Canadians of my generation, changes in social mores related to the reproductive rights of women engendered a similarly vigorous discussion. End-of-life decision making will likely continue to confront and provoke us for decades to come.

What we have heard during this study of this bill has at times confused the difference between a request for MAID assessment and the decision to proceed with MAID. Recently we had materials related to MAID arguing that physicians will be required to provide MAID just because someone asks for it. The claim made is that patient requests and the giving of informed consent will become the sole arbitrator of the medical standard of care. This is not true.

Standards of care already exist for MAID, and they include requirements that physicians adopt reasonable and well-considered treatment plans, framed in the law of the land and applied carefully and with respect to the balance between patient autonomy and other ethical and professional considerations.

These standards will evolve over time with changes in medical science, social norms and priorities, just as the standards of care for all medical and surgical interventions inevitably do.

Additional standards will also be developed in response to Bill C-7. They will evolve through a complex interplay of multiple factors, and will follow the usual processes and patterns of the development of standards of practice that are found in all aspects of nursing and medical care.

Indeed, the 18-month time period identified in the sunset clause will allow for this important and continued work to move forward, as it relates both to assessments and possible additional safeguards for sole underlying mental disorder. This will be done by professional organizations and will also give provincial and territorial governments an opportunity to weigh in on the process, much as Quebec has already begun. For example, a suggestion made by Dr. Kirby — for a MAID navigator to assist in the process of MAID assessment for a person with a sole mental disorder — could be considered by provinces and territories. It will also provide an opportunity for regulatory bodies to get up to speed on this important issue, and so enhance Canadians' confidence that those additional players who need to be involved, are involved.

Over the past months, we heard from many Canadians who shared their perspectives and opinions with us, just as we have heard well-articulated concerns about ongoing lack of health and social services resources for many. We have also heard from numerous psychiatrists and other experts who, based on best available evidence, have clearly rejected opinions given by some, that mental disorders are significantly less predictable than many other illnesses, including those co-morbid with mental illness. We have heard substantive testimony from many experts that exclusion of persons based solely on a sole mental illness for MAID consideration was not some abstract notion of equality, but rather a very concrete example of a breach of the equality provisions of the Charter. We heard the two major organizations of psychiatrists in Canada raising substantive concerns about the vague and overly broad use of the phrase "mental illness" without defining it in the bill.

We gave all these concerns that we have heard considered and careful thought.

However, as I reviewed the testimony of almost 150 witnesses and the scores of briefs we received during pre-study and study of Bill C-7, I was left with the realization that, although Bill C-7 was addressing MAID, we only heard from one family member who had actually been through that experience with a loved one. Additionally, although a key component of the bill that was presented to us included a mental illness exclusion clause, we never heard from any person who was experiencing intolerable suffering based solely on a mental illness. We did, however, hear quite a bit from people who had never assessed an individual for MAID, and from those who were quite clear that it was their personal opinion about the nature and value of another person's suffering that took precedence over the opinion that a competent individual — who was actually experiencing the suffering — had about their own experience.

To address some of these gaps, I'm now going to share with this chamber some of the voices that I have personally heard from. I have their permission to anonymously use extracts from their notes to me. I will share deep and heavy concerns from people who have a sole mental illness and who are living with severe and intolerable suffering. People who said they were thankful that this chamber provided a sunset clause to the mental illness exclusion originally in the bill.

The first is from a person who has intolerable suffering from an intractable mental illness. They have received in-patient and out-patient care in one of Canada's premier treatment facilities. This has included numerous psychotherapies, multitudes of medications, transcranial magnetic stimulation and many courses of electroconvulsive therapy, all to no avail in alleviating their intolerable suffering, but who could not request an assessment for MAID because of the "death reasonably foreseeable" clause of Bill C-14, the clause that Bill C-7 will now revoke provided all other requirements are met.

"Mine is not a knee-jerk reaction" to a recent upset or change. I have diligently pursued every reasonable treatment option . . . . When I have heard people talk about intolerable physical suffering I hear my own suffering in their words, my own feelings and thoughts . . . . Those who haven't experienced mental illness . . . should not be given free reign to decide this for those of us who have . . . lived it personally.

They go on:

Please don't deny my eligibility for MAiD based on . . . the testimony of experts who have a vested interest in purporting the notion that everyone who experiences my level of suffering can be saved . . . such a notion is equally as naïve and disingenuous as those who say that everyone who suffers from depression wants to die. I am a mature and intellectually capable individual, and I deserve the same level of respect and compassion as those who suffer intolerably from a physical illness.

Another writer addresses the reality of MAID and the stark choice that they would be left with if they could not request an assessment for MAID:

Would you rather have your loved one request MAiD and have a well thought out and peaceful resolution to their suffering, surrounded by loved ones, or have them continue indefinitely with their intolerable suffering — watching their life slip away; or worse yet, have them inflict a brutal and lonely tragedy upon themselves and their family. A tragedy where everyone is traumatized, angry, guilty, confused — never having had a chance to say goodbye?

Colleagues, we must remind ourselves that Bill C-7 is a bill to amend the Criminal Code, to clarify the boundaries of provision of MAID in response to court rulings, to decriminalize one aspect of end-of-life care. That is its focus. The amended Bill C-7 strives to find a fine balance between competing perspectives on MAID, while ensuring that its practise is not discriminatory against those with a sole mental illness, and thus is likely to be in compliance with the Charter. And I think that it has been able to do so.

We have all worked hard and diligently on this bill. I would particularly like to recognize the work of our colleagues Senator Petitcherc, the sponsor of the bill, and Senator Jaffer, the chair of the committee that oversaw the pre-study and the study of the bill. I would also like to acknowledge Senators Dawson and Patterson and their contributions, sharing their personal experiences of MAID.

Colleagues, I think we have done a good job in very challenging circumstances. It has been a privilege to be able to work on this bill. I think the bill now before us is better than the one we received. Hopefully, the other place will carefully consider the revisions that we are sending to them and they fully accept this new and better bill.

Please join me to reflect on what we have learned from this work, to commit to improve the lives of all Canadians, regardless of their circumstance, and also vote to support the passage of the amended Bill C-7. Thank you. *Meegwetch*.

**Some Hon. Senators:** Hear, hear.

*(At 9 p.m., pursuant to the orders adopted by the Senate on October 27, 2020 and December 17, 2020, the Senate adjourned until 2 p.m., tomorrow.)*

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