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# Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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Chair: Mr. Robert Morrissey



## Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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• (1120)

[English]

**The Chair (Mr. Robert Morrissey (Egmont, Lib.)):** Good morning, everyone. I call this meeting to order. Welcome to meeting number two of the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities.

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. The proceedings will be made available via the House of Commons website. The webcast will always show the person speaking, rather than the entirety of the room.

I would like to take this opportunity to remind all participants to this meeting that screenshots or taking photos of your screen is not permitted.

To ensure an orderly meeting I would like to outline a few rules to follow.

Members and witnesses may speak in the official language of their choice. Interpretation services are available for this meeting. You have the choice, at the bottom of your screen, of floor English or French. If interpretation is lost, please inform me immediately, and we will ensure interpretation is properly restored before resuming the proceedings. The "raise hand" feature at the bottom of the screen can be used at any time if you wish to speak to the chair or alert the chair, or you can simply raise your hand in the room.

For members participating in person, proceed as you usually would when the whole committee is meeting in person in a committee room. Keep in mind the Board of Internal Economy's guidelines for mask use and health protocols.

Before speaking, please wait until I recognize you by name. If you are on the video conference, please click on the microphone icon to unmute yourself. For those in the room, your microphone will be controlled as normal by the proceedings and verification officer. When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute. A reminder that all comments by members and witnesses should be addressed through the chair.

With regard to a speaking list, the committee clerk and I will do the best we can to maintain a consolidated order of speaking for all members, whether they are participating virtually or in person.

As you are aware, we are studying Bill C-3, an act to amend the Criminal Code and the Canada Labour Code. Pursuant to the order of reference of Thursday, December 9, 2021, the committee will commence its consideration of Bill C-3, an act to Amend the Criminal Code and the Canada Labour Code.

We will wait until we have the minister, who is doing a sound check.

I will suspend momentarily while we await the arrival of the minister, virtually.

• (1120)

(Pause)

• (1125)

**The Chair:** I'll call the meeting back to order. We had momentarily suspended, so the committee is now in session.

I would like to welcome our witnesses, beginning with the Minister of Labour, the Hon. Seamus O'Regan, as well as staff from the Department of Employment and Social Development and the Department of Justice. We will go through those as they appear.

Minister, we'll begin with five minutes of opening remarks by you, followed by a question and answer session. This was scheduled from 11 o'clock to 12 o'clock, Minister, so the committee will decide how it wants to proceed when we get to 12 o'clock.

Thank you.

**Hon. Seamus O'Regan (Minister of Labour):** Thank you, Mr. Chair.

Thank you to the members of the committee.

I want to acknowledge that I am joining you from the island of Newfoundland, which is the traditional territory of the Beothuk and Mi'kmaq peoples.

I want to thank you for inviting me to discuss this bill, and for your patience through all the technical difficulties that we've had.

It is a sad reality that across Canada some workers do not have access to paid sick leave. In fact, 58% of workers in Canada do not have any paid sick leave at all. This means that many workers cannot afford to stay home due to an illness. This is a significant issue.

For some people, missing paid days due to illness means not being able to make your mortgage or rent payments, or deal with the many other bills that you need to pay to support your family. It is simply an unfair choice to impose on Canadian workers.

Despite the progress that the Government of Canada has made on the labour front, it is clear that the pandemic has exposed the gaps in our social safety systems. The time has come to close the gap on paid sick leave.

Currently, the Canada Labour Code provides employees in federally regulated industries with several unpaid leaves related to personal illness or injury, as well as three days of paid personal leave that could be used to treat an illness or injury. However, if we look at the statistics from 2019, we find that Canadian workers took an average of eight and a half days of leave for illness and issues related to a disability. It has become very clear that three days is not enough.

This legislation would amend the Canada Labour Code to provide 10 days of paid sick leave per year to workers in the federally regulated private sector. This is a change that will make a real difference in the lives of working Canadians. As of today, there are approximately 18,500 employers in federally regulated industries. Together, this represents over 950,000 workers.

[Translation]

The federally regulated sector is comprised of workplaces from a broad range of industries—it includes interprovincial air, rail, road and marine transportation, pipelines, banks, postal and courier services, among others. These are all industries people count on every day.

[English]

It's incumbent on us as the federal government to support these workers. The bill before us today not only allows workers in these vital industries to stay home to rest when they are sick, but also prevents the spread of illness in the workplace. Specifically, it would amend part III of the Canada Labour Code.

[Translation]

The first change is to provide that, for each calendar year, employees would accumulate one day of paid leave per completed month of employment, up to a maximum entitlement of 10 days per calendar year.

[English]

The second change is to avoid duplicating paid leave provisions related to illness or injury under the Canada Labour Code.

These two changes would impact 600,000 employees—582,700, to be exact—in the federally regulated private sector who don't currently have access to at least 10 days of paid sick leave.

Increased paid sick leave would support employees by protecting them in three ways.

[Translation]

First, paid sick leave would protect workers' incomes. Workers won't have to choose between staying home to get well and getting paid.

Second, it would protect their jobs.

And finally, it would protect workers' health. Additional sick days would allow them to recover at home, which would protect others in the workplace.

• (1130)

[English]

In addition, the government would like to see paid sick leave implemented across the country, in all sectors. To do that, we will discuss a plan to legislate sick leave across the country with provinces and territories, respecting their jurisdictions and keeping the unique needs of small business owners top of mind.

Currently, not every province and territory has paid sick leave provisions, and that shouldn't be the case. We have a responsibility to make sure all Canadians have access to paid sick leave. This is essential to Canada's economic recovery. It will protect workers' health now and into the future.

It's time to close the gap that the pandemic exposed in our social safety net.

Mr. Chair and members, as we finish the fight against COVID-19, a vital step towards Canada's economic recovery is to make sure that Canadians have access to paid sick leave.

I want to quote from economist Jim Stanford. In *The Globe and Mail*, he said:

It would be reckless and short-sighted to return to a preCOVID "normal" that compelled sick workers to show up, regardless of the risk to others.

With this bill, the government is taking action to give workers the support that they need to help keep themselves healthy and keep their workplaces safe. Hard-working Canadians across the country are counting on us to make these necessary and important changes.

Thank you for your time.

**The Chair:** Thank you, Minister.

We'll now move immediately to the first round of questions.

We'll go to Madam Kusie for six minutes, please.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** Thank you, Chair.

Thank you, Minister. It's always a pleasure to see you. I recognize the importance of this bill and the urgency in which we must pass it, given your appearances yesterday and today.

I want to cut to the chase and get to the two issues that came out of the Senate, which are being reported in the media today.

The first one is proposed subsection 239(1.2), with the bill currently reading:

An employee earns, at the beginning of each month after completing one month of continuous employment with an employer, one day of medical leave of absence with pay, up to a maximum of 10 days in a calendar year.

What we're hearing is that you, the government, might seek to have those 10 days begin automatically at the start of employment, rather than accrue over time. The rationale for that is, in many cases, that someone might need the 10 days before 10 months of being employed. However, providing all 10 days of paid medical leave up front could impose costs on employers in high turnover industries, such as road transportation, where employees change employers frequently. By accumulating paid leave throughout the year, new and departing employees would receive days of medical leave with pay for the months that they are with a particular employer, thus limiting costs on employers in high turnover industries, for example.

I want to ask you in a very upfront way where the government is in its thinking with this request to go to the immediate bulk entitlement, as opposed to the accrual method. Where are you, Minister?

**Hon. Seamus O'Regan:** First of all, thank you very much for not only your comments today but, during several of my checks when I couldn't help but listen in, Madam Kusie, I appreciated some of the words you said, particularly on my role as natural resources minister. I think many members recognize I took my responsibilities there to heart. One thing I will take with me is the importance of workers to our natural resources sector not only here now but also into the future.

I will cut to the chase. We are open to amendments, yes. We are open to, I think, good, constructive conversations, and certainly I would look at anything in writing that was brought forward.

There were some issues, for instance, on the accumulation of sick days. As we'd said, they would accumulate as presented to you, one per month. Perhaps we could offer a certain number of days as a minimum up front. I think we are willing to look at anything, Madam Kusie, that would encourage people, or at least not cause people to hesitate, to stay home if they feel they may have symptoms.

I can tell you that the present imperative put upon us by omicron is real. Even since I spoke to the Senate yesterday, we have a better, although not complete, understanding of this variant. The importance of our acting upon this is so immediate.

**Mrs. Stephanie Kusie:** Thank you, Minister.

I will stop you there, please, so I can get to my second question.

• (1135)

**Hon. Seamus O'Regan:** This could not be more timely. Thank you for your constructive comments.

**Mrs. Stephanie Kusie:** Indeed, omicron is real, but so is the necessity of getting our economy going and getting inflation under control.

I'm going to turn to the second concern that came out of the Senate yesterday, hoping that you will be able to address it, very frankly, more directly, more completely and more specifically.

The other portion of the bill where I understand we could see some movement is in proposed subsection 239(1.6). It reads:

The employer may, in writing and no later than 15 days after the return to work of an employee who has taken medical leave of absence with pay, require the employee to provide a certificate issued by a health care practitioner certifying

that the employee was incapable of working for the period of their medical leave of absence with pay.

What we're hearing is that you, the government, again might get rid of this portion entirely. One trend we have certainly heard from many stakeholders we've talked to is that they strongly support leaving this portion in the bill and would in fact have a lot of concerns without a medical certificate. Employers would have no recourse if an employee might be using days when they're not sick.

Before you move on this portion of the bill, I think we need to have a very serious discussion about this, because, in fact, the support of the official opposition might rest on your decision with this. I'm going to ask you again, please, in regard to proposed subsection 239(1.6), where the government is at in terms of requiring a sick note either upon illness or upon return to work.

**Hon. Seamus O'Regan:** First of all, as you said, as currently drafted the employer may require no later than 15 days after the employee's return to work that the employee provide a certificate issued by a health care practitioner certifying that the employee was incapable of working for the period of their absence.

Listen, both of these things being presented here are either-or, either we do it all or we don't do it all. There is room for a compromise that would acknowledge arguments on both sides. That's how this country was built.

I can understand how this could be onerous for workers, particularly in light of the pandemic. There's data that indicates workers are less likely to use the sick leave they are entitled to when a doctor's note is required. An Ipsos poll was done that indicated 82% of Canadians would rather go to work sick than obtain a medical certificate, so that's not in keeping with the spirit of this legislation.

As I've said, I am mindful of potential barriers to access for paid sick leave and potential ways to address them. I'm also very much aware of businesses' concerns about abuse—

**Mrs. Stephanie Kusie:** That's very inconclusive, but thank you, Minister.

**The Chair:** Madam Kusie, your six minutes have concluded.

Now we go to Mr. Long for six minutes.

**Mr. Wayne Long (Saint John—Rothesay, Lib.):** Thank you, Mr. Chair.

Good morning, Minister. It's great for you to be here with us today.

Good morning to all of my colleagues around the table.

I'll say just a few words at the start here about what we've all been through, all of us from all parties, over the last couple of years. Obviously we're in unprecedented times. We know, as the minister just said, that omicron is upon us and it's a game-changer with regard to what we're dealing with for the future. I'm very proud of my government. I'm very proud of all MPs across all party lines and how we have collaborated over the last two years. We've delivered programs. I'm proud of what we've done. No one knew in March 2020 what we'd be faced with, and whether it was the CERB, CEBA, the wage subsidy, rent support, business loans or what have you, we were there as a government for Canadians. We were there to support Canadians.

Certainly one thing that was missing—it's bothered me really for over a year now—is that I would have people coming into my constituency office and they were sick. They had to make a decision between going to work sick or staying home and not being able to feed their family, pay their mortgages or what have you. The fact that we're coming forward with Bill C-3 and the fact that it's going to give people who are sick the opportunity to be home, get better and not spread COVID, or what have you, around the workplace is profoundly important.

Minister, thank you, and I apologize for yesterday. I know there were some delays. I know your time is precious.

My first question to you, Minister, is this. From your side and the department's side, can you describe the necessity of paid sick leave and how you've come to where we are right now?

• (1140)

**Hon. Seamus O'Regan:** Thank you, honourable member for Saint John—Rothesay, for the opportunity.

Let me say that this is not a matter of my valuable time, etc. There is no more important place for me to be than right here with you, right now, and the same was true yesterday. Omicron is in Canada and it is spreading. There have been many times, I'm sure, that you've heard, before this committee and through other committees, about the urgency of what is before you and the need to act quickly. I cannot tell you how urgent this legislation is and the signal it would send to so many workers before Christmas that we have their backs, that it is okay to stay home and that they should not have to make difficult decisions on their rent or mortgage. We need them to stay home, for them to stay well, for their families to stay well, for all of us to stay well.

The urgency of omicron is real, and this will send a signal in a tangible way for us to minimize the impact of this variant.

The second thing I would say—and this is in response to a comment by Madam Kusie—is that we are very well attuned to the costs borne by businesses. It is very easy for politicians to appear before committees like this and say, “But, you know, it is much worse if we don't do this....”

But it is much worse if we don't do this. It is much worse for small businesses, for big businesses, for all businesses—for us—if we don't take measures like this. It is real. We know that. We've been through it. We don't want to go through it again. We don't want to go through a complete lockdown of this economy again.

There are things we can do that we absolutely and essentially need to do. All I want to do is assure honourable members—and I've sat on a committee similar to yours—that I'm not abusing this language or these sentiments in front of you. This is not political rhetoric. This is real. The cost to the economy if we do not take measures like this will be enormous. We know that because we're coming out of it. The urgency of acting on this has never been more vital. Omicron is here.

**Mr. Wayne Long:** Minister, thank you for that.

For the record, can you state again the percentage of workers who are not covered by sick leave in Canada?

**Hon. Seamus O'Regan:** It's 58% of workers. You're talking about an awful lot of people in retail and other industries. We are talking right now about the 6% who are governed federally, under federal jurisdiction. These are some large companies and small companies, 15,000 in total, of all shapes and sizes, many of which have already shown very real leadership in this space.

I would also remind honourable members that the reason 10 days is so essential is that, for the most part, it is two working weeks. How long do we ask people to quarantine for? It's two weeks. That's why the 10 days is so important. It will cover people who we ask to quarantine for two weeks.

**Mr. Wayne Long:** Thanks for that, Minister.

Minister, what would you say to anyone who says that this bill is being pushed through too quickly?

**Hon. Seamus O'Regan:** We've heard that so many times before. I'm sure there are ministers of all parties who have perhaps abused that authority.

I am telling you that I am not pulling that plug or pulling that chute or whatever you want to call it. I am not doing it easily nor am I abusing my authority—political or otherwise. It is imperative that we act quickly. It is absolutely vital that we act quickly.

I implore members of the committee to take me to heart on that.

**Mr. Wayne Long:** Thank you for that.

Minister, I have a final comment. I'm very happy to hear that you will be entertaining some amendments. I know some of the other parties do have some suggestions. I'm really happy to hear that too.

I thank you very much for your time. We'll see you soon.

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

We'll now go to Madame Chabot for six minutes.

[*Translation*]

**Ms. Louise Chabot (Thérèse-De Blainville, BQ):** Thank you, Mr. Chair.

Good morning, Mr. Minister.

Today, you are reiterating something that you mentioned in the House when the bill was introduced, which is the goal of strengthening the social safety net. That's also part of our objectives.

Giving 10 days of paid sick leave to all workers who are not entitled to it is a positive thing. I see this as one of the significant benefits that all employers should consider, because it helps attract and retain staff.

However, let me tell you that when it comes to the social safety net, we are wide of the mark. When I think of individuals with serious illnesses receiving only 15 weeks of sickness benefits under the employment insurance system, and the fact that barely 40% of workers are eligible, I can see that we have a long way to go.

My question is about the 10-day paid sick leave bank. I feel it's important that it be clearly articulated that this is a right.

I also have a few questions about the implementation of this measure. We need to make sure that after one month of service, workers will be able to use these 10 days of leave immediately, and that they will not be accumulated at the rate of one day per month.

You should also clarify what you mean by "continuous service". Does it mean that if, during the course of a month, a worker needs to be absent for some other reason, they will not be considered to have provided continuous service?

In my opinion, you should clarify that people could take half-days of leave, while Bill C-3 provides that the employer could require them to take a full day. To give this bill its full effect, unless it's not necessary, would you be willing to clarify provisions that would impede the accumulation of leave?

• (1145)

**Hon. Seamus O'Regan:** Thank you for the question, Ms. Chabot.

During the pandemic, we noticed that many workers didn't have access to paid sick leave.

[*English*]

As you rightly point out, nobody should have to choose between staying home when they're sick or being able to afford rent and groceries.

[*Translation*]

We are proposing amendments to the Canada Labour Code to provide all federally regulated private sector workers with 10 days of paid sick leave.

[*English*]

Having said that, it is important that what we are asking for, basically, is a floor. There has to be a minimum 10 days offered. To get back to a common misconception, these aren't stackable days [*Technical difficulty—Editor*] top of days that you may already have through your employer or through your collective agreement. We are looking for a minimum of 10 days, so that everybody has those 10 days whether they are presented through this legislation or whether they are presented through other collective agreements or agreements with the employer.

I will ask my deputy, perhaps, to answer some of your questions more specifically. She is standing by.

Deputy.

**Ms. Sandra Hassan (Deputy Minister of Labour, Department of Employment and Social Development):** Thank you, Minister.

[*Translation*]

Thank you for the questions, Ms. Chabot.

You alluded to some of the provisions in Bill C-3, namely the accumulation of leave at a rate of one day per month, the issue of continuous service and the fact that the bill provides that employees could take a half-day, but the employer could also ask them to take a full day. Those provisions are currently in the bill.

Yesterday, our minister showed some openness to considering amendments to the bill. He would be very interested in receiving suggestions for wording related to requests.

**Ms. Louise Chabot:** Thank you.

I'll come back to it in the second hour.

Mr. Minister, I have a second question. You did not address the issue of criminal law. You had committed to talking to labour organizations to ensure that the Criminal Code provisions would not interfere with the constitutional rights to protest, picket and assemble.

How could we get that assurance in the bill?

• (1150)

[English]

**Hon. Seamus O'Regan:** My deputy could speak to this as well, I'm sure, or Mr. Brown. We were involved with justice officials to assure our stakeholders that this was not the case, ensuring that the right of assembly, the right for peaceful assembly and the ability of people to strike were not an issue. We've been assured of that.

In fact, I can ask her to maybe say a word. Laurie Wright is here from Justice. Maybe she can give you the technical assurances, Madame, that you are looking for.

**The Chair:** Go ahead with the answer.

**Ms. Laurie Wright (Senior Assistant Deputy Minister, Department of Justice):** Thank you very much for the opportunity to speak to the provision.

The bill importantly contains in it a defence that means that a person who was engaging in [*Technical difficulty—Editor*] would not be found to have committed the offence. It's well established, because this is a defence that appears in another part of the Criminal Code as well. "Communication" is defined quite broadly. It would certainly include those who are picketing in order to exercise their right to strike. As well, it would cover a variety of types of communicative behaviour.

**The Chair:** Thank you.

We'll now move to Mr. Boulerice. Mr. Boulerice is here on behalf of Madam Zarrillo.

[Translation]

**Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP):** Thank you very much, Mr. Chair.

I'm pleased to address you on this important bill, Mr. Minister. I thought it was interesting to hear you talk about your sense of urgency to get it passed so that we can provide this sick leave capacity for federally regulated workers.

Right away, I must say that I wish that sense of urgency had been there 12, 18 or 24 months ago when the pandemic was hitting full force. I feel that would have protected people and perhaps prevented the spread of infection and the overcrowding in our health care system. It is not as if the NDP didn't ask for it, because our leader has asked for it 22 times in the past year. It finally happened. We have talked about it before in the House. I understand that you are looking forward, but I feel this has dragged on a little over the past 18 months.

In your response to a question from Ms. Kusie, you opened the door for workers to have a few sick days already available. What Bill C-3 is currently proposing is one day off per month, but it offers no leave bank to begin with. So to get two or three days of sick leave, it could take two or three months or maybe a little more if the employee was hired in the middle of the month, for example.

I'd like to hear your comments on that. Health experts tell us that people very rarely take only one day off when they are sick with something like the flu. Instead, they take two, three or four days off. Would you be open to the idea of setting up a bank of leave,

maybe not all 10 days at once, but a small bank, so that the bill would be more realistic given how long people get sick for?

[English]

**Hon. Seamus O'Regan:** Yes. Of course, I would ask to see it in text, but, yes, we would be open to that. We've heard some very good arguments made, and again, whether it is one thing or the entire thing, I think we can reach an honourable compromise. Certainly we do not want to hinder people's ability to do this. The only other thing I would add, Mr. Boulerice, is that, to use a religious metaphor, there's nothing more irritating to long-standing parishioners than the newly converted. Here we are, as you said. This is important.

I would say that the urgency of it has changed even in the past few days. While I acknowledge that 20 months ago or 22 years ago, yes, this would have been a good thing, I would also say that, with what we know now about omicron and where it is in this country, the urgency of this has changed demonstrably in the past few days.

• (1155)

[Translation]

**Mr. Alexandre Boulerice:** Thank you, Mr. Minister.

I have another question. The bill is written in such a way that it sounds like everyone is a new employee. I understand that it may take a new employee longer to accumulate 10 days in their sick leave bank. Perhaps they could have a bank of three or four days to start with. That would be helpful, and it's often the case in collective agreements, by the way.

On the principle, even though we may have found a compromise or middle ground in there, on the day the law comes into effect, what happens to individuals who have five, six or 10 years of seniority with a company? If everyone starts from scratch, does an employee with seniority have to start from scratch as well?

[English]

**Hon. Seamus O'Regan:** The notion here is that new employees would accumulate those days over time. Arguments have also been made to us that perhaps instead of being accrued at the beginning of a calendar month, in fact the one day would be accrued after 30 days, or roughly four weeks, perhaps, of service or employment. That would not really cost much more if any more money, but it would allow greater flexibility for those employees who may be starting mid-month. They wouldn't have to wait a whole month and a half. They would get it after their first four weeks of working. That's something we're looking at.

On the issue of seniority, I'm going to ask my deputy to clarify that to make sure you get a clear answer.



Deputy.

[*Translation*]

**Ms. Sandra Hassan:** Thank you for the question, Mr. Boulерice.

As currently written, the bill does indeed treat all employees the same way, regardless of seniority. Everyone will be able to accumulate leave days starting with one day after one month of continuous service, regardless of whether they are a new employee.

**Mr. Alexandre Boulерice:** Thank you. That's clear. I feel like we can work on that.

With regard to employees having to request a medical certificate within two weeks of taking a single day of sick leave, I find that to be overburdening and a great deal of paperwork for physicians, who already have a lot of work to do.

Could we not consider requiring a medical certificate after at least four or five days of sick leave? For a day or two, that is a lot of paperwork for nothing, and it disincentivizes workers from using sick leave, according to a survey you mentioned.

[*English*]

**The Chair:** Could you please give us a short answer?

**Hon. Seamus O'Regan:** Yes, I would be open to that. To Ms. Kusie's concern, when we're talking about employers, I think they just want to make sure that there's some assurance or a tripwire to make sure you don't see an abuse. We have a saying in Newfoundland about the biggest sleeve in the harbour, and that just means that the people who sometimes abuse rules and that sort of thing shouldn't dictate the behaviour and the privileges that should be afforded to the great majority of people who abide by these things and do so honourably. It's about trying to find an honourable compromise here. I think we would be open to that.

We have also heard from stakeholders in the medical community, as I believe you have too. They have said that as we deal with the pandemic as well as a stretched health care system, lining people up to make appointments to get doctors' notes is also cumbersome, and I think that's also something we have to reflect on. Let me just say that we are open to it.

**The Chair:** Thank you, Minister.

I will now need direction from the committee and the minister. This meeting we scheduled to go from 11 a.m. to noon to hear from the minister. Before we go into the second round, what is the wish—

**Hon. Seamus O'Regan:** My intention, Mr. Chair, was to spend an hour with you. I believe we've accommodated for that.

I'm in your hands.

● (1200)

**The Chair:** That's from the time you appeared. The hour began then.

What are the wishes of the committee? Do you want to keep the minister for the hour—

**An hon. member:** Yes.

**The Chair:** —which will reduce the time with the officials?

Okay. That's the direction from the committee.

Thank you, Minister and committee.

We'll move to the second round and the first questioner.

Mr. Jeneroux, you have five minutes.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Thank you, Mr. Chair, and congratulations on being elected chair of our committee. We're in good hands so far. I'll pause at "so far".

**Some hon. members:** Oh, oh!

**An hon. member:** A qualifier.

**Mr. Matt Jeneroux:** Yes, it's a qualifier.

Minister, thank you for accommodating the time. It's certainly a pleasure to finally get you here to be able to talk about this obviously very urgent legislation.

The piece I want to talk to you about most, Minister, in my brief five minutes, is the ability to look at some of the amendments that you've been open to so far. It sounds like they're piling up a bit, so I want to make sure that one doesn't get lost in that—namely, the private member's motion of my colleague Mr. Tom Kmiec on the bereavement leave. It's one thing to talk about sick leave, but we've seen so many Canadians then have to struggle post-death of their loved ones.

Just as a quick refresher, Minister, that's supporting parents who have received the trauma of a miscarriage by allowing them to receive three days of paid bereavement leave. We're committed to providing up to eight weeks of paid leave from employment in the event of a child's death or stillbirth. We will be submitting that in written form as an amendment, but we're hoping that we get your support for that.

I do want to come back to the fact that, on this side of the table, we're very concerned about getting this done urgently. From the very basic starting point.... My wife is a surgeon. She has been on the front lines. She has looked in people's eyes as they have gone through probably one of the most traumatic experiences of their lives. She's had to unfortunately be there when people have passed away. The urgency of doing this, I can say from my point of view, is very important.

To that piece, to getting this passed quickly, I'm really worried about your timeline here. Can you please talk about the bereavement leave, and can you also tell us how in the world you're going to get this done in the 48 hours that Parliament is essentially left sitting for?

**Hon. Seamus O'Regan:** I thank the honourable member for the question.

First of all, I think what Mr. Kmiec has gone through on a personal level is gut-wrenching; I can't imagine. I commend you and the members of your caucus for the amount of solidarity you've shown him. I've certainly heard from many members from your caucus who have approached me and talked about this on a deeply personal level. Let me say outright that I am fully prepared to take up the issue and give it all the consideration it deserves. I am very much open to seeing what we can do here.

As you pointed out, there are time constraints. We are keenly aware of that. I think this is an excellent opportunity and it makes a whole lot of sense, so let's see if we are able to accommodate it here.

Just for the edification of members, federally regulated employees are currently entitled to up to 10 days of bereavement leave in the event of a death of an immediate family member. In the event an employee is on compassionate care leave or leave related to critical illness and the family member they are caring for dies, then they are entitled to take bereavement leave.

That's where things stand right now. We are certainly open.

**Mr. Matt Jeneroux:** Thank you, Minister. I think our committee is intimately aware, because there was, if I may say, a terrific private member's bill that came to this committee—sponsored by me, in particular—that helped to increase the bereavement leave. I know that this committee is intimately aware of that.

In terms of what you just hit on, for the federally regulated employees—I believe the number you said was 582,000 employees—they're in the airlines, the banks. We all know here that it's not everybody. You have even more work ahead of you in terms of getting the provinces on side with this, so to say that we need to urgently pass it here.... There's so much more to be done.

Again, I guess I'm a little worried about your timeline here, Minister, in terms of this making an immediate on-the-ground impact for Canadians, as you indicated in your opening comments.

• (1205)

**Hon. Seamus O'Regan:** If we can give some 500,000-plus workers in this country the assurance that staying home is the right thing to do and that they will not be penalized financially for doing it, it's a good start. Every bit helps.

You were right to point out that we have a lot of work ahead. We have 94% of workers within provincial and territorial jurisdiction, and we have to be very respectful of provincial and territorial jurisdiction here, so we have a lot of work ahead of us. I plan on convening a meeting very early in the new year with my provincial and territorial colleagues to discuss exactly this [*Technical difficulty—Editor*] to make this national. What can we do collectively to make this a national plan? That is certainly our intention.

I agree. This is the beginning. It is a heck of a good place and start. The more people we can give the assurance to stay home and do the right thing with omicron now in Canada, the better.

**The Chair:** Thank you, Minister.

We'll go to Mr. Van Bynen for five minutes.

**Mr. Tony Van Bynen (Newmarket—Aurora, Lib.):** Thank you, Mr. Chair.

Minister, thank you for taking the time again to join the committee and to answer our questions.

Bill C-3 is so important to strengthening Canada's safety net and ensuring that Canadians don't have to worry about staying home if they're sick or about being unable to pay their bills.

I also want to take this opportunity to quickly say thank you to the health care workers in my riding and across Canada who've been working day in and day out in an already overwhelming environment to keep us safe and to protect our health.

Since 2009, the government has created greater access to paid sick leave for Canadians. Could you walk us through a brief timeline of the work that the government has done since then?

**Hon. Seamus O'Regan:** My thanks to the honourable member and thanks to him for acknowledging health care workers in his riding. I would add, obviously, the health care workers right across the country.

I'm thinking of what one representative of workers and frontline workers told me on my third day on the job. She said to stop calling them heroes and start treating them like human beings. That has certainly stayed with me. If you've heard a similar message, I'm sure it's stayed with all of you. We have to put tangible things in place to protect people.

That gets to the second part of this bill in dealing with the intimidation that many of our health care workers saw over the course of the last summer to the utter disgust, I think, of millions of Canadians. It's the clarification to law enforcement officers, so that they know exactly what they need to do and that the penalties would be increased. Importantly, it's that health care workers know in a very real way that the people of this country have their backs, that we support them and that we will not tolerate that sort of behaviour toward people in our health care system who we are asking so much of, particularly during this pandemic.

I may be betraying some of my own sympathies as the proud son of a nurse—that's how I was raised—but I think anybody who has benefited from the care, pride and dignity of our health care workers understands that they need that protection and that they should not be subjected to that sort of abuse.

**Mr. Tony Van Bynen:** Thank you.

I've had the opportunity to contact Arden Krystal, the president and CEO of Southlake Regional Health Centre, in my riding. I asked her for her thoughts on Bill C-3. Ms. Krystal is, by and large, supportive of the legislation, particularly the changes to the Criminal Code related to intimidation and impeding access to services.

I am happy to see that we're collaborating on making this commitment we've made to Canadians a reality. Is it possible that there may be some confusion as to what the bill targets? Could you tell this committee what it doesn't target?

**Hon. Seamus O'Regan:** I thank the honourable member for the question.

I will ask my deputy to give clarification.

**Ms. Sandra Hassan:** I will turn to Laurie Wright, the justice representative, to answer on the portion—

**Hon. Seamus O'Regan:** There's a clear chain of command here.

● (1210)

**Ms. Laurie Wright:** I'm happy to take my spot wherever that chain of command puts me.

Thank you so much for the question. What's very important to understand about the part of the bill that would create the new criminal offences around intimidation of health care workers and those seeking health services, and also the obstruction of those who are trying to access health care facilities, is that the focus of these amendments is on threatening and intimidating behaviour. We know that the obstruction offence does not apply to persons who are merely at a place to communicate information, so peaceful protest that is lawful and has only a minor impact on access is not going to be caught. As I have been able to state in response to an earlier question, this also means that people are able to exercise their labour rights, including their right to picket. As long as they're doing so peacefully, they're not going to be caught by the offences.

Just to sum up, the purpose is to try to capture threatening conduct where there is violence or a threat of violence, and not at all to touch on people's peaceful assembly and freedom of expression rights.

**The Chair:** Thank you. That's five minutes, Mr. Van Bynen.

We'll now move to Madame Chabot for two and a half minutes.

[*Translation*]

**Ms. Louise Chabot:** Thank you, Mr. Chair.

To follow up on the last answer, I will come back to the issue of protecting health care workers, professionals, those accompanying them, and patients. In principle, of course we agree that they must be protected. We have seen, although fortunately not on a regular basis, examples of protests, especially outside vaccination clinics. It is my understanding that these protests are being specifically targeted.

As I said earlier, protection needs to be guaranteed, because health care workers want to be protected, but they also want to advance their rights, which is a form of protection and a way to improve one's life and working conditions. To do that, workers

protest, strike and picket outside health care facilities. Why consider adding offences? Will people still have their constitutional right to protest? We feel it's quite important to have that explicitly guaranteed in the bill.

[*English*]

**Hon. Seamus O'Regan:** I will speak to it in broad strokes, Madame, and then I will ask Ms. Wright perhaps to get more specific.

Let me just say that it is clear in the bill that this is about the obstruction and intimidation of health care workers. They should not be in a circumstance where they are obstructed from performing their duties—and that includes entering the workplace—nor should they be intimidated in doing so.

We were clear on that and obviously, as the Minister of Labour, I share with my officials in the labour program a keen sense that we, in no way, want there to be any sort of infringement upon their ability to strike and to demonstrate in a peaceful way, but we want to be clear that the intimidation and obstruction of health care workers is not something that we will tolerate.

Ms. Wright, I will allow you to speak on this in a clear way for the honourable member.

**The Chair:** Mr. Minister, maybe they could add that to a following question or another round. We're over time.

We'll now go to Mr. Boulerice for two and a half minutes.

[*Translation*]

**Mr. Alexandre Boulerice:** Thank you, Mr. Chair.

I will try to be brief. I have two short questions.

Whatever method is provided for an employee to accumulate their 10 days of sick leave, could we clearly establish that someone who has only used four days of that leave at the end of the year does not start from scratch in January, and that the six unused days will be carried over to the next year, up to a maximum of 10 days?

• (1215)

[English]

**Hon. Seamus O'Regan:** It's carried over. I'm just going to look for a nod from my deputy here, but it is, yes. It's carried over, Mr. Boulerice. They don't start from zero. The intention is to make sure that employees always have 10 days, but that for new employees, it is accumulated over time. This is something they get, one for every month. As it's written right now, it's every calendar month, although, as I said earlier, we would be open to being flexible on that if it meant 30 days or a 30-day work period.

[Translation]

**Mr. Alexandre Boulerice:** I'd like to ask one last question.

If the collective agreement provides that an employee is entitled to three days of paid sick leave, would the 10 days provided under the law be added to that so that the employee would be entitled to 13 days, that is, the 10 days under the law and the three days under the collective agreement, or will accumulation be limited to seven new days of paid sick leave?

[English]

**Hon. Seamus O'Regan:** Again, and I will look for a nod from my deputy here, but I am fairly confident that what we are talking about here is the 10 minimum days. If they have three, we'll make sure they have an additional seven in order to make that 10.

[Translation]

**Mr. Alexandre Boulerice:** Thank you, Mr. Minister.

[English]

**The Chair:** Mr. Boulerice, you gave us an extra minute. Looking at the timeline, we'd have time for a five-minute round for the Conservative Party and five minutes for the government.

Minister, are you able to accommodate 10 more minutes?

**Hon. Seamus O'Regan:** Yes.

**The Chair:** With that, we'll go for five minutes to Mr. Benzen.

**Mr. Bob Benzen (Calgary Heritage, CPC):** Thank you, Chair.

It's nice to be here today in person rather than trying to make my way through an airport while the committee is in session.

Also, thank you, minister, for being here today.

I'd like to talk a bit about health care, which is really important. Obviously, sick time is important, but we really haven't talked about the cost to businesses to have this program in place. I'd like to make one comment about what I've heard here today. I don't think any of the benefits should be retroactive.

From a business point of view, if the benefits are going to start, they should start only going forward. I also don't think we should pay out benefits until they have been earned, because if we start paying out benefits before they've actually accumulated, it's going to be very costly from a bookkeeping point of view. If employees leave before they've earned the time, it just creates all kinds of problems. I think you have to earn it before you use it, and you can't use it retroactively.

In terms of what businesses are facing today, they're facing enormous challenges. We're talking about inflation now. That seems to be the big thing in the House of Commons. We know that's going to have an effect this year on wages for employees. They'll have to go up. Raw materials are going up in cost. Taxes are going up. Carbon taxes and environmental costs are all going up. There are regulations. Bank loans are going to be more expensive with interest rates.

Now we're asking businesses, and we've said that up to 58% of company employees don't have these benefits. These benefits are going to have to be a new cost. Have you thought about what the total costs will be, and how businesses will be able to afford this in order to continue to provide their services?

**Hon. Seamus O'Regan:** Mr. Benzen, good to see you. We followed some of your journey yesterday. It was a bit shaky, but it's good to see you in person.

Let me assure you, first of all, and on a personal note, throughout the pandemic, for most of it because conditions were better here in Newfoundland than in most of the country, my husband was running a restaurant. I heard about the costs, sometimes onerous costs, on businesses, and how government programs were affecting his business every day.

I'll say that in a colloquial way, but I can also tell you that, from our department's point of view, we pride ourselves in not only spending time with stakeholders, unions and organized labour, but speaking to employers equally as well. Taking both of those perspectives into consideration is incredibly important.

As I said before, and I'll say it again, the last two years have shown us what the cost of not acting now could be: productivity loss, quarantine, shutdowns, lockdowns. The economic cost of inaction is far greater. That said, we recognize there could be a significant cost to employers based on how this is implemented. We also recognize that employers have unique needs. We need to engage with stakeholders, with employers directly and with workers as we move toward implementation.

We committed to convening the provinces and territories to develop that national plan, because it's not just about federal workers. It's about strengthening the social safety net for workers across Canada, and not just employers within federal jurisdictions but, obviously, those within provincial and territorial jurisdictions as well.

We have to get it right, and we need to get it done. I don't mean to be sweeping in that, but we know what a lockdown has done.

• (1220)

**Mr. Bob Benzen:** When the businesses have all of these increased costs, the first thing they have to do is raise their costs to their consumers. That means, taking some of these businesses you're talking about, they're going to be competing against international companies that may not have to have this added cost.

WestJet might be competing against, I don't know, American Airlines, and Westjet may now have to have this extra cost that American Airlines doesn't. WestJet's tickets might get more expensive than American Airlines' and people won't want to fly Westjet.

Doesn't this also hurt the economy, in terms of potentially making us uncompetitive in some areas?

**Hon. Seamus O'Regan:** The economic numbers, from a macroeconomic point of view, speak for themselves. We have recovered in a more fulsome fashion, I would argue, than the Americans have. We've been able to get more jobs back and get more people employed because we took the significant measures that we had to.

That is not to say.... I'm not going to sit here and say, "Well you know, if you don't do it, the cost is even greater, so shut down". In getting through it, there are still significant costs to employers, and we have to take that into consideration.

What I'm telling you is that, were I appearing before this committee in normal COVID circumstances, I would say, "Look, we're trying to get public health and public safety balanced with workers, but also with employers while making sure that we don't put onerous costs on them". I'm thinking of small businesses, in particular. Absolutely, we're trying to get that balance right.

However, now with omicron, I am telling you that it is serious and it is immediate. While I am not taking my eye off implementation or the nuances of it, I am making sure that we do not add onerous costs to small businesses. I am telling you this is a very significant variant at a very difficult time of year. I would acknowledge that we're coming into the Christmas holidays, where gatherings happen, people are busy, people are out and people want to celebrate. The last thing they want to hear about is an impending variant and the government's response to it, but it's happening.

**The Chair:** Thank you, Minister.

Thank you, Mr. Benzen.

We'll now move for the final question in this round to Mr. Coteau.

**Mr. Michael Coteau (Don Valley East, Lib.):** Thank you very much, Mr. Chair.

Thank you, Minister, for being here today.

This issue is an important one to me, personally, because of the community I represent. Don Valley East is a great community, but there are pockets where there are low incomes—as low as \$50,000 in family income per year.

During the pandemic, there were a lot of families that came in to see me—to talk to me virtually or by phone—about the impact of unpaid sick days on their lives. Only 42% of Canadians actually have paid sick days. I think the numbers were at about 42%. As

one's income becomes lower, it actually goes down to.... I think at the lowest income it is about 10% with paid sick days. An additional 500,000 people getting paid sick days would be really impactful for many people in this country, so it's a great thing.

In fact, last year, I introduced a private member's bill at the Ontario legislature asking for 10 paid sick days, because it was something that a lot of people came to speak to me about. When you hear those stories out there, it really comes down to basic decency. It's about dignity. It's about making sure that a person has their back covered by the company they're working for, and that the government's putting out legislation that's actually aligned with where people are and the lives they're experiencing.

I was hoping that you could just take a few minutes to talk about some of those conversations you had with everyday Canadians, and about how this pandemic has impacted them, specifically, around paid sick days.

• (1225)

**Hon. Seamus O'Regan:** I'll use that quote again because it had such an impact on me. The quote was to "stop calling us heroes and start treating us like human beings".

That gets to your point about dignity and the dignity of workers. I'm sure this is something that the committee deals with regularly, that is, talking about the dignity of workers and the dignity that should be afforded to them. I am here on this day to once again implore you of the urgency of this.

To your point, it is the individual decisions that people make every day and the multiplier effect of that through this country that will have a significant impact on how we deal with omicron and how we deal with COVID. To make sure that we do not go through the significant lockdown this country has gone through before, those individual decisions that people make when they feel they might have a symptom of COVID.... Unfortunately, too many are in a position where if they do not show up at work they could possibly not make the rent or could not pay their mortgage. They have to make a choice between a sick day and groceries.

Where we can we should relieve that pressure so that people can make honest decisions, based on the symptoms that they have, that they should stay home. Think back to the early days of the pandemic when we saw workplaces pinpointed and we saw COVID spread through particular workplaces when we could have minimized that. I would be the first one to say, yes, but here we are now, knowing that, having learned our lessons. As I've said, even a few days ago I would have come here with urgency, but today I come here with great urgency. I implore this committee.

I thank you, first of all. I know that you will be working very hard in the next 48 hours. I thank you for that. It is not work that is going to waste. This is more than just politics, ladies and gentlemen. Getting things like this done, right now, will have a deep effect, even in the next few weeks and months, I would argue, on just how bad omicron could be. We need to minimize it where we can. We absolutely do. It is here.

In our ability to deal with it, we have shown the world, to be honest, how well we can deal with this collectively. Again, the individual decisions that we make, collectively what a difference they make. Ultimately, what counts here are lives saved, the number of lives saved in this country. This will save lives in the very short term.

I thank you for your kind attention and for your concentration on this in the next few hours. It will be recognized and noted. I am deeply appreciative.

**The Chair:** Mr. Minister, that concludes the first round with your attendance. Thank you for the time before the committee.

We will suspend for a moment while we welcome two additional witnesses from two departments.

Again, thank you, Minister, for your time.

**Hon. Seamus O'Regan:** Thank you, all.

Merry Christmas.

**The Chair:** We have to do a brief sound check.

I just want to advise that I'll be going back to the first speaking order, but each party will decide who they want.

There will be six minutes to Madame Chabot and six minutes to you, Mr. Boulerice. The Conservatives and the Liberals can decide who they want for their six.

We'll have a brief suspension while we do sound checks with the two joining witnesses.

• (1225) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1230)

**The Chair:** I'm resuming the meeting.

At this time, we have about 20 to 25 minutes.

I want to welcome to the committee Mr. Wolfe. Is he on the screen yet?

**Mr. Douglas Wolfe (Senior Director, Strategic Policy and Legislative Reform, Strategic Policy, Analysis and Workplace Information Directorate, Labour Program, Department of Employment and Social Development):** I'm here, yes. Thank you very much.

**The Chair:** There's Mr. Wolfe.

Is Madam Klineberg here?

**Ms. Joanne Klineberg (Acting General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice):** Hello, good afternoon.

**The Chair:** Welcome.

We'll resume the second part of the meeting with witnesses, and for the first round of questioning, I will go to Mr. Ruff for six minutes.

**Mr. Alex Ruff (Bruce—Grey—Owen Sound, CPC):** Thank you, Mr. Chair.

Thanks to the officials for showing up for today's committee meeting.

Unfortunately, the minister has gone. He did talk quite a bit about the importance of getting this bill through.

I guess my first question is this, and I know I've heard the minister try to answer it in the House before unsuccessfully. Would it not be a lot faster, considering the urgency, especially of the sick leave portion of this bill, to split this bill into two separate parts? Would that not definitely get it through the House and through this whole review process a lot faster?

**The Chair:** Who do you want to direct your question to?

**Mr. Alex Ruff:** It's to whichever official wants to answer it. Go ahead.

**Mr. Andrew Brown (Assistant Deputy Minister, Policy, Dispute Resolution and International Affairs, Department of Employment and Social Development):** It's Andrew Brown with the labour program at ESDC. I'll jump in on that.

Thanks for the question, Member.

What I would say there is that these are priorities that have been identified by the government, both in terms of providing support to workers as well as protecting health care workers and patients who are trying to access the health care system. These are priorities that have been advanced for consideration by Parliament.

**Mr. Alex Ruff:** Thank you. My question was this: Would it not go faster if we split this?

My next question is to Madam Klineberg on the justice department side. To me, this bill doesn't do a whole lot of anything new. These are already illegal: intimidation, trespassing, assault and obstructing people from getting to their workplace.

Could you elaborate a little bit on what specifically is new and we don't have already within our criminal laws?

**Ms. Joanne Klineberg:** Thank you for the question.

One thing that is specifically new in the bill is the offence of intimidating a health care provider or a person seeking access to a health service by making this a new offence. The penalty has been elevated. There is an offence of intimidation in the Criminal Code already that would cover this behaviour. It currently has a maximum penalty of five years, so creating a new offence is coupled with an increase in the maximum penalty for this offence. This recognizes the harms to those threatened, to the health care system and to those who may be unable to obtain services as a result of acts of intimidation directed at health professionals.

Other than that, the creation of this new offence as well as a new offence for obstructing access, in addition to the other measures in the bill, is the creation of two aggravating factors on sentencing that go beyond what is presently recognized by the courts under the common law for recognizing the gravity of offences when punishing offenders. Those are several new measures that are in the legislation.

• (1235)

**Mr. Alex Ruff:** Thanks, Madam Klineberg.

To expand on that, it somewhat makes logical sense, the importance of stopping people who are trying to stop people from getting to their work, especially vital health care workers.

Would it not then make sense to expand this to include other critical infrastructure that's so vital to our economy, to other key workers, essential workers, across this country? How difficult would it be just to make that simple adjustment to the bill, then, to expand it to include more than just health care workers but all critical infrastructure in the country?

**Ms. Joanne Klineberg:** Thank you for the question.

I think that is a somewhat complicated question for the following reason. There is an offence already called mischief to property that involves a lot of different kinds of misbehaviour towards property, public and private property, and also critical infrastructure.

The new offence that's been proposed for obstructing access to health facilities really targets one kind of misbehaviour towards property, and that is obstructing or impeding access into the property. It doesn't cover other types of criminal conduct such as damaging property, destroying property or rendering the property inoperative. It could be that, in the case of critical infrastructure, those are the kinds of behaviours that are more at issue, the kinds of wrongdoing that we're more likely to see, and they are not included in this specific offence in this legislation.

I think it's somewhat of a more complicated and perhaps different kind of issue in terms of the behaviour that people engage in when they're targeting critical infrastructure as opposed to health facilities.

**Mr. Alex Ruff:** Thanks.

I can acknowledge that portion of your answer. I guess I would just counter back that if that's all we're talking about, just the obstruction part with employees, it would make sense that it could apply just as easily to all those other critical sectors.

The minister tried to answer this, talking about the protection of free speech, peaceful demonstration, our unions, etc. I just want to make it crystal clear or get clarity that this bill will not stop or interfere with the ability of those Canadians who want to have free speech in his country and want to address their disagreement with where the government is going, or where certain sectors are going, whether or not it's health care.

**Ms. Joanne Klineberg:** Thank you for the question again.

In this regard, I will draw the committee's attention to the specific subsection of the bill that would create the defence that the minister and Ms. Wright referred to earlier.

In the legislation as it amends the Criminal Code, there would be a new proposed section 423.2. Proposed subsection 423.2(4) of that new offence includes the defence that says no person is guilty "by reason only that they attend at or near, or approach, a place referred to" in the offence "for the purpose only of obtaining or communicating information."

I'm happy to inform the court that defence like this was first introduced into our Criminal Code in 1934. It presently exists in relation to several offences in the Criminal Code, and specifically offences that are like the one being created. This defence has been interpreted by the courts and applied by the courts, including in contexts involving protests and picketing. From a criminal law point of view, the criminal courts are very familiar with this kind of defence. The exact same language has been used precisely so as to inform the criminal courts that Parliament's intent is that they apply the same reasoning and the same principles in terms of this new offence.

It is very clear from a criminal law point of view that peaceful protests, peaceful picketing, will not result—cannot result—in a criminal conviction because of this inclusion.

**The Chair:** Thank you, Ms. Klineberg.

Now we go for six minutes to Mr. Collins.

**Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.):** Thanks, Mr. Chairman, and good morning.

My residents in Hamilton East—Stoney Creek have questioned the requirement for the medical certificate, or doctor's note, as some people may call it. They, like the minister referenced, might see it as a barrier or an obstacle to taking advantage of the benefit.

I know that time is of the essence, of course, as the minister referenced in his comments. I think there was also the comment that some of the stakeholders may have presented that there might be, with the requirement for the medical certificate, an unintended consequence of overwhelming the health care or medical community. My residents have raised with me that it's something they'd like to see modified or amended as part of the legislation. I'm curious to know how we landed on the strict requirement for a medical certificate as part of the legislation.

• (1240)

**Mr. Andrew Brown:** Thanks for that question, Mr. Collins.

In terms of how we landed upon that requirement for the medical certificate, I'd first like to note that it's not a general requirement. It is actually a tool that would allow employers to validate the medical leave requirement if necessary, so there isn't a requirement that an employee provide that medical note unless requested by their employer.

It wasn't intended to be a barrier to prevent employees from accessing leave, but we've certainly heard that from stakeholders and from you as you relayed on from your constituents. As we heard from the minister earlier, he's open to taking a look at language that would adjust the certificate requirement.

I think I would leave it there. This is a new element in terms of a paid leave. There are limited paid leaves currently available under the code, so this would be a tool for employers if they felt they needed to request some kind of validation from the employee.

**Mr. Chad Collins:** Thank you for the answer.

Through you, Mr. Chairman, my next question would be around the whole area of consultation with stakeholders in terms of unions, employers and employees who would be affected or impacted by the legislation.

Can I get an understanding, knowing that we landed on the 10 days and the requirement for a medical certificate, of what led us to that decision with the comments that we heard from stakeholders, because we're starting to hear from some of those very same stakeholders that the legislation, as written, needs to be amended in a couple of areas. I'm glad to hear some of the comments from some of the other party members around the same.

Can I also get an understanding of whether those issues were raised as part of the consultation and recommendations were made to the contrary? How did that work out prior to its coming to the House in its current form?

**Mr. Andrew Brown:** Thanks for those questions.

I understand that in trying to understand better what stakeholders have had to say with respect to the requirement for a medical certificate, we have heard from a variety of stakeholders and, as you point out, particularly from some in the health profession. They have been questioning the need or the added value of providing a certificate.

We have also heard from other stakeholders who have been concerned about not having the ability to check on the validity of an employee using the paid sick leave for its intended purpose. Again, the whole purpose of having a certificate requirement was that, within 15 days after the employee returns to the workplace, the employer would be able to request the medical certificate, if needed. That would be a validation, but the employer is not required to ask that from the employee.

**Mr. Chad Collins:** Thank you for that answer.

Through you, Mr. Chair, I would ask about the whole issue of the sense of urgency. We heard from the minister and we've seen rising case counts across the country that cause us some concern in terms of using all the tools available to all levels of government to combat the spread of the virus. I get a sense from some of the comments we've heard in speeches in the House and here at the committee that there's a desire to move this forward and further protect Canadians.

My question is—if and when it's passed, and I certainly don't want to jinx the process—how quickly does it make its way to the workers who will then receive the benefit. For my postal carrier who's delivering the mail and who may contract some symptoms or

feel that it's safer to stay home because of some of the health issues they're experiencing, how quickly would the benefit flow through to the employees in federally regulated industries? Is that the first quarter of 2022? Is that something later next year?

Can we get some idea in terms of how quickly the benefit will flow through to the employees?

• (1245)

**Mr. Andrew Brown:** Thanks for that question as well.

We absolutely heard the urgency from the minister this morning in reference particularly to the omicron variant that is showing up across the country. In terms of how it would be brought into force and how the benefits would flow through to the workers in the federally regulated sector, the bill would come into force by order in council by the coming into force date, which has not yet been determined.

As soon as it is brought into force, it would start to apply immediately to workers across the federally regulated sector. As we've heard and as the bill is currently drafted, they would start to earn one day of paid sick leave per month worked from the time that it comes into force.

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

Now we go to Madame Chabot for six minutes or less.

[*Translation*]

**Ms. Louise Chabot:** Thank you, Mr. Chair.

I have some questions about the Canada Labour Code.

Now that we are deciding to grant 10 days of paid sick leave, we must also make sure that the right is properly documented. But as I look at the wording and the way in which the clauses have been drafted, I still see some questions.

I have to tell you that, in Québec, we have the same requirement for a medical certificate. The requirement to provide a medical certificate is found in the Act Respecting Labour Standards. Within that requirement, the circumstances must be justified. Breaking an arm is one thing, having gastroenteritis is another. I feel that some flexibility is needed so that the requirement does not become abusive.

I have a question about the proposed subsection 239(1.2) of the Canada Labour Code. It reads:

239(1.2) An employee earns,

(a) ...at the beginning of each month after completing one month of continuous employment with the employer...

What do you understand by “continuous”? Is leave that was previously scheduled considered not to be continuous employment with the employer?

**Mr. Andrew Brown:** Thank you for the question, Ms. Chabot.

I would like to pass that to Douglas Wolfe. He will be able to answer your question about continuous employment.

**Mr. Douglas Wolfe:** Good afternoon.

Thank you very much for the question.



It's a very important one. The period starts when employees begin their employment. When they take vacation or sick leave, that does not interrupt the continuous nature of the employment.

**Ms. Louise Chabot:** I have another question.

Bill C-3 says—in subsection (1.4), I think—that we can accumulate days of leave. In other words, if someone has accumulated 10 days in their bank of leave and they are fortunate enough not to be sick, the bank of leave days can be carried forward to the next year and can be used in its entirety, as I understand it.

But does the counter go back to zero in terms of accumulating days of leave? I understand that you can't have more than 10 days. That's fine, it's a choice.

How can we make sure that people are not penalized in terms of accumulating days of leave in the following year if the 10 days per year in the previous year have not been used?

• (1250)

**Mr. Andrew Brown:** As the bill is drafted at the moment, employees who have not used all the days they have accumulated [*technical difficulties*], let's say eight days of paid sick leave during [*technical difficulties*]. On January 1, if employees have not used those days, they begin [*technical difficulties*] for paid sick days [*technical difficulties*] always possible to accumulate two other days up to the maximum of 10 days of paid sick leave.

That is how it works. Employees use all the days [*technical difficulties*] in the next year.

**Ms. Louise Chabot:** The interpreter is indicating a problem, Mr. Chair.

[*English*]

**The Chair:** There is a problem with your connection, Mr. Brown. Can you repeat that?

[*Translation*]

**Mr. Andrew Brown:** Of course.

If employees do not use days of sick leave in one calendar year, they start the next year with those days. They do not start again from zero, unless they have used all 10 days in the preceding year.

**Ms. Louise Chabot:** Are you open to the idea of crediting a certain number of days of paid leave for those starting in a position?

For example, let's suppose that a new employee has two months of continuous service and has therefore accumulated two days of leave. He falls ill and has to take, say, four days of leave. If I understand correctly, with the current wording, that employee will have two days of paid sick leave and two days of unpaid leave.

Would we be able to use some days of paid leave as a credit, to make sure that we are making the measure really work? Are you prepared to consider an amendment along those lines?

**Mr. Andrew Brown:** Thank you for the question.

As the minister said, [*technical difficulties*] is indeed open to the idea of amending that aspect of Bill C-3.

[*English*]

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

Now we'll go to Mr. Boulерice for the final six minutes.

[*Translation*]

**Mr. Alexandre Boulерice:** Thank you very much, Mr. Chair.

I want to make sure I have a proper answer to an important question.

Ms. Chabot talked about the provisions to amend the Criminal Code. We want to make sure that the rights of healthcare workers in terms of striking, picketing and otherwise exerting pressure is fully protected. We have heard positive answers, but I did not take very good notes. So I would like the clearest answer possible, and to be shown that the right is protected in an act, a section or a provision.

We have witnessed some disgraceful actions and some unfortunate events over the last 18 months. We therefore agree on the principle that healthcare workers must be protected. However, that must not impede the right of those same workers to exert pressure as their collective agreements are negotiated.

I would like someone to confirm that this basic right is protected in a specific section or in particular legislation. That would allow me to give a clear answer to any union representatives who may be concerned about the issue.

**Ms. Laurie Wright:** Thank you for the question.

I will speak first and my colleague Ms. Klineberg can add more specific comments about the provisions in the Criminal Code.

First of all, we know that the bill must comply with the Canadian Charter of Rights and Freedoms. In the House, the minister was able to explain how the bill complies with the charter.

However, the charter's protections of freedom of expression do not involve forms of expression that are violent or that incite violence. A section specifies the kinds of activities that are criminal in nature.

I will now ask my colleague Ms. Klineberg to tell you about the provisions in the bill.

• (1255)

**Ms. Joanne Klineberg:** Thank you.

I will point out to the committee exactly where the issue of defence can be found in the bill.

Clause 1 of the bill makes amendments to the Criminal Code.

Clause 2 of the bill, which can be found on page 1 of the PDF version of the bill, will create subsection 423.2 in the Criminal Code.

Paragraph 423.2(4) of the bill deals with defence. It can be found on page 2 of the PDF version of the bill, around line 8.

That is the clearest way of showing you...

**Mr. Alexandre Boulerice:** Forgive me for interrupting you, but I only have a minute left.

I wanted to ask a question that is a little technical in nature. It is about calculating calendar months in order to accumulate days of paid sick leave at a rate of one day per month. If someone were hired on March 6, they would not have worked for the entire month of March.

Do they have to wait until they have worked for the entire month of April to earn their first day of paid sick leave in May? Are we talking about four consecutive weeks, regardless of the hiring date, or are we sticking with the calendar?

**Mr. Andrew Brown:** According to the bill as drafted, the employee in that example will have to wait until May 1.

**Mr. Alexandre Boulerice:** Okay. Thank you.

[English]

**The Chair:** Thank you to the witnesses.

Thank you, Mr. Boulerice.

That concludes the witness section of this committee hearing. I need direction from the committee. It is my understanding that there is agreement for the committee to meet again this afternoon from 3:30 to 5:30 to begin clause-by-clause reading of the bill. Have we agreed on that, committee?

I see nods and acceptance.

We'll need to set a time today for the submission of written proposed amendments to the bill. What is the time you would choose, recognizing that the meeting is at 3:30 and the amendments should be provided to the committee in both official languages? I suggest two o'clock or 2:30. I hear 2:30 for any proposed amendments to the bill in both official languages. Do we have the concurrence of the committee?

**Some hon. members:** Agreed.

[Translation]

**Mr. Alexandre Boulerice:** Just to be clear, are we talking about 2:30 p.m?

[English]

**The Chair:** The deadline is 2:30, Mr. Boulerice.

• (1300)

[Translation]

**Mr. Alexandre Boulerice:** Great.

Thank you.

[English]

**The Chair:** I'm told by the clerk that two o'clock would work better than three to prepare for 3:30, but it's at the committee's prerogative.

**Mrs. Stephanie Kusie:** Is that for the amendments or for the meeting?

**The Chair:** That's for the amendments. The meeting is at 3:30.

That the amendment package be submitted by two o'clock—

**Mrs. Stephanie Kusie:** We prefer 2:30, as was originally suggested, please.

**The Chair:** That's fine. The committee chooses its timeline, so 2:30 will be the timeline for amendment packages to be submitted. The committee will be meeting again from 3:30 to 5:30 to begin clause-by-clause reading of the bill.

**Mr. Wayne Long:** Chair, for clarity, obviously, we're working with different offices on amendments. That being said, if there is a table drop, we would be okay with that, as long as it's submitted in both official languages.

**The Chair:** The committee chooses its own direction and can deal with any issues that present.

Mr. Long, thank you for your intervention.

Thank you, committee members, for today's meeting.

The meeting is adjourned.







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