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The Honourable GEORGE J. FUREY,  
Speaker

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## THE SENATE

Friday, December 17, 2021

The Senate met at 10 a.m., the Speaker in the chair.

Prayers.

[*Translation*]

### QUESTION PERIOD

#### NATIONAL REVENUE

##### TRANSFER OF SMALL BUSINESS

**Hon. Leo Housakos (Acting Leader of the Opposition):** My question is for the Leader of the Government in the Senate. Senator Gold, as you know, Conservative member Larry Maguire's Bill C-208 received Royal Assent last June. It sought to correct some tax inequities that occur when an SME is transferred to a family member.

During the debate on Bill C-208, the government spokesperson, Senator Woo, Senator Harder, Senator Dalphond and you claimed that passing the bill would create a huge loophole in the tax system. You said, and I quote:

. . . Bill C-208 as currently structured would enable loopholes within the tax system that create opportunities for tax avoidance by the wealthy at the expense of those these measures should rightfully support.

Six months have passed and your government has still not found it necessary to make amendments to the Income Tax Act. My question is simple, Senator Gold. Did the government mislead senators during the debate on Bill C-208?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for the question and for quoting what I said in this chamber.

The government's position that I shared with you remains the same. The government's priorities for this period were well established and properly communicated. Fortunately, we are doing our part to ensure that the government's legislative priorities are implemented.

[*English*]

**Senator Housakos:** Senator Gold, if what you and your fellow colleagues who spoke on behalf of the government in this chamber said was true, how do you explain the Minister of Finance's lack of action on this huge loophole that Bill C-208 has created? According to your own speech and according to what Senator Harder said, hundreds of millions of dollars would have been lost by the treasury because of Bill C-208.

The government had two opportunities to correct this with Bill C-2 and Bill C-8. Why has the government done nothing? Is it because what you said was just not true or because the government is asleep at the switch, or is it just a question of neglect?

**Senator Gold:** Thank you for your question. That gives me the opportunity to answer briefly. Since you asked three questions, the answer is no, it is not; no, it is not; and no, it is not.

#### JUSTICE

##### CHARTER OF RIGHTS AND FREEDOMS

**Hon. Salma Ataullahjan:** Honourable senators, my question is for the government leader in the Senate.

Senator Gold, we have all heard of Fatemeh Anvari, a Grade 3 teacher who was removed from her classroom because she wore a hijab. Sadly, that is only one story of many. I would love to share with you the exact number of Canadians Bill 21 has impacted since its inception in 2019, but no such data exists.

Senator Gold, when will the government commit to investigate and collect data on the ramifications of Bill 21?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. As I have mentioned on a number of occasions in this chamber, the government is watching the legal proceedings attentively with regard to Bill 21. With regard to the collection of data and the impact, this data would be largely, if not exclusively, within the jurisdiction of the province to both gather and to protect for reasons of provincial and federal privacy laws.

I don't have an answer for you, but I suspect that the answer is that this is not an area that the federal government would likely have jurisdiction over, but I will certainly make inquiries and report back.

• (1010)

**Senator Ataullahjan:** Senator Gold, we have been informed by NGOs and through various university studies that Bill 21 has negatively impacted hundreds of Canadians. For example, families had to relocate after making the impossible choice between their career and their faith. Some were forced to go back to school to change their field of expertise. Many, because of their faith, struggle to find meaningful employment and now suffer from poor mental health.

Senator Gold, what are the government's plans to implement services and financial support for Canadians whose lives have been upended because of Bill 21?

**Senator Gold:** Thank you for your questions about the federal government's position on this bill. The position of this government is clear: It is not removing from consideration measures to intervene in the court proceedings, unlike some other leaders of national parties.

The Government of Canada provides support to Canadians through a myriad suite of programs. To my knowledge, there is no specific program contemplated for those who choose to relocate or whose lives are disrupted because of Bill 21.

Again, members of this chamber know my personal position on the bill. They also know the government's position on Bill 21, which is that it is an unacceptable interference with the freedom of individuals to believe what they want and to exhibit those beliefs through their dress. It is also the position of the government that it regrets the rather broad invocation of the "notwithstanding" clause. Beyond that, senator, I'm afraid I have nothing more to contribute to your question.

[Translation]

## PUBLIC SAFETY

### CORRECTIONAL SERVICE CANADA—ACCESSIBILITY IN PENITENTIARIES

**Hon. Chantal Petitclerc:** My question is for the Government Representative in the Senate.

An article in the *Toronto Star* last week caught my attention. The article was about lack of accessibility in federal penitentiaries. It tells the story of Kitten Keyes, an inmate at Grand Valley Institution who uses a wheelchair.

She says she was forced to sleep on the floor for 21 days straight because her cell wasn't accessible, so she couldn't get to her bed. She also soiled herself because she couldn't reach the toilet in her cell. I found that so upsetting, that I dug deeper and found out that the problem is all too real, as laid out in the 2019 report by the Office of the Correctional Investigator and the Canadian Human Rights Commission entitled *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody*.

When the Accessible Canada Act was passed, the federal government committed to making Canada a barrier-free country, starting with places under its direct authority.

This much is clear: Accessibility should be universal for everyone, including inmates. Senator Gold, how will your government fix this problem? I witnessed the problem first-hand when I visited a prison with Senator Pate.

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question, which highlights not only the importance of the issue, but also everyone's right to be treated properly and fairly, which also applies to people who are incarcerated.

I don't have the answer to your question at the moment. This is a concern for me too, and I assure you I will contact the minister and come back with a response as soon as possible.

**Senator Petitclerc:** Senator Gold, could you also inquire as to when the most recent audit was conducted in the correctional system to examine the level of accessibility for persons with disabilities and reduced mobility?

If no comprehensive review has been conducted, is one planned and, if so, when?

**Senator Gold:** I will add that to my list of questions to ask the government. Thank you.

[English]

## JUSTICE

### CHARTER OF RIGHTS AND FREEDOMS

**Hon. Mobina S. B. Jaffer:** Honourable senators, my question is also to the Leader of the Government in the Senate. Senator, I asked you part of this question yesterday. I want to quote what the Prime Minister said in 2015 when he clearly stated:

Canada's diversity is our great and unique strength. We are the one country in the world that has figured out how to be strong, not in spite of our differences but because of them. So, the prime minister of this country has a responsibility to bring people together in this country, not to divide us by pandering to some people's fears.

Leader, yesterday you said that the Prime Minister will intervene at the appropriate time. Do you have an idea of what is meant by an "appropriate" time?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you, colleague. As Government Representative, first of all, please let me repeat what I said and have tried to make clear on two occasions. The Government of Canada and the Prime Minister have said that he is not eliminating the possibility of intervening at the appropriate time, not that he has decided to intervene. With regard to the appropriate time, colleague, I don't have the answer. However, the answer will be a function in part of how legal proceedings unfold in Quebec. They are currently before a lower court. Thereafter there would be other stages and legal proceedings, and at each stage the Government of Canada will consider its options and respond appropriately.

**Senator Jaffer:** Senator Gold, you said — fairly — that the government is looking at the legal proceedings. Legal proceedings cost a lot of money. The Cities of Toronto and Brampton have stepped up to help civil liberties — Sikh and Muslim organizations — to fight this in court. Is the Prime Minister also going to support them financially? Because otherwise it's an uneven balance. To fight a government is very difficult, as you know. Will the Prime Minister support those groups to make sure they can fight the case equally?

**Senator Gold:** Thank you for your question. There is no doubt that litigation is an expensive proposition. That is why this government has reintroduced and reinstated the Court Challenges Program, which was eliminated by a previous government. There are mechanisms to support litigants in their efforts to challenge laws — whether provincial or federal — on grounds of alleged Charter violations, and the government is pleased those measures are in place to assist any litigants who qualify.

## TRANSPORT

### NATIONAL SUPPLY CHAIN

**Hon. Jim Quinn:** Honourable senators, the members of this chamber have heard many comments over the past few weeks regarding climate change from various senators, in the Speech from the Throne and, last night, from the Minister of Finance. There is no doubt that climate change has a dramatic effect on our economy and on jobs associated with that sector.

It's excellent to learn that the Government of Canada will be convening a summit of industry and transportation officials to discuss critical infrastructure supply chain in early 2022. Having broad representation is extremely important in such a summit. Atlantic Canada plays an important role in transportation in this country, and sometimes representation from Atlantic Canada in such endeavours is thin.

When we are looking at who will be invited, we need to ensure that Atlantic Canada is well represented, particularly from the port sector. One of those ports is Port Saint John, the third-largest volume port in Canada and the only port in Atlantic Canada serviced by our two national rail lines. Can the government ensure that Port Saint John will be invited to the table?

**Hon. Marc Gold (Government Representative in the Senate):** Senator Quinn, thank you for your question. The government was very pleased to announce a national supply chain summit to discuss the challenges and strategies which you referred to, and importantly the next steps that will enable recovery for Canada's transportation supply chain.

• (1020)

With regard to your specific question, the government is very aware of the importance of the port to Canada as a whole, much less the Atlantic provinces and your province in particular. I have been advised that the details of who will be invited and attending have not yet been finalized. I have been advised that different levels of government and different representatives of the industry that have an interest in supply chains and notably — and this was made explicit — ports, rail companies and trucking alliances will be in attendance.

**The Hon. the Speaker:** Senator Quinn, supplementary?

**Senator Quinn:** Senator Gold, can you give some assurance that you will submit to those decision makers on who will attend by requesting the Port Saint John to be in attendance?

**Senator Gold:** Of course. It would be my pleasure to do so.

## NATURAL RESOURCES

### THE 2 BILLION TREES PROGRAM

**Hon. Percy Mockler:** Honourable senators, my question to the Leader of the Government in the Senate is concerning the two billion trees to be planted. In January, the Parliamentary Budget Officer estimated that this program would cost \$5.7 billion. Given that Natural Resources Canada, or NRCAN, and the government said very little progress has been made on this program to date, and that you have just had to rework your original plans, is this still projected, as per the government, that it would cost \$3.16 billion? Who is right?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your question. Though I'm not able to respond specifically to the question of the figures, I am happy to report that the government remains committed to reaching its goal — slow start though it indeed had — to plant two billion trees across this country.

The government has finalized the plans and agreements with project partners this summer, putting Canada on track to plant 30 million trees by the end of this year. Those partners will report their final numbers in the spring of 2022. The government is also announcing a second call for proposals this week, which will help to ramp up planting across the country.

**Senator Mockler:** Leader, a lot of questions are unanswered. I'm asking you if you could relay this to the government and inform Canadians and the industry that creates many hundreds of thousands of jobs: Given that Atlantic Canada is a leader in tree planting, that it does not lose significant amounts of forest to fire and pests, that this is a 30% increase in tree planting levels across Canada and that this effort will require investments to seed and nursery production, how is the government factoring the value that Atlantic Canada can bring to this program? What is this government proposing in terms of how to allocate these funds to Atlantic Canada given the different tenure systems across the country that have impacts on industrial interests, private landowners and Crown land?

**Senator Gold:** Thank you. That is a very good set of questions. I will certainly make inquiries and be pleased to report back when I get an answer.

## FINANCE

### GOVERNMENT'S FISCAL POLICY

**Hon. Larry W. Smith:** Honourable senators, my question is for the Leader of the Government in the Senate. Senator Gold, in November 2020, with respect to Bill C-9, I asked Minister Freeland whether or not the government was using fiscal anchors or, as she put it, "guardrails" to guide spending decisions at that point and time.

The minister reiterated the fact that funding spent to fight the COVID-19 pandemic would be “limited and temporary.”

The question I ask this time around, since we are in version three and four of the COVID outbreak, is very simple: What fiscal anchors, if any, are being used to guide the government’s current spending decisions? Could you please provide us with specific examples?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for the question. As the minister announced and as the *Economic and Fiscal Update 2021* revealed, the government has put a number of indicators in place to make sure that, despite the investments that unhappily have to continue to be made to support Canadians through this pandemic, our fiscal and economic situation remains stable and, indeed, is poised to continue to improve. These include references to debt-to-GDP ratio. The government is pleased, as the minister announced in this chamber yesterday, that the international markets and rating agencies continue to see Canada’s economy as strong and sustainable.

**Senator Smith:** Senator Gold, during our Committee of the Whole deliberations yesterday with respect to Bill C-2, Minister Freeland highlighted that Canada’s debt-to-GDP ratio, which is still forecasted to be 48% in 2021-22, is the lowest in the G7. However, CPA Canada, in a recent statement, made it clear that it recommended “the government replace the debt-to-GDP target with a ‘fiscal anchor framework’.”

A fiscal framework would move beyond the simplistic ratio and pursue a series of metrics which would provide a more complete picture of the health of the economy, but also instill confidence in both households and businesses that the government is addressing its large deficits and levels of indebtedness.

Senator Gold, why won’t your government move away from the debt-to-GDP metric and implement a series of fiscal anchors which will provide more enhanced measures of accountability but also provide some sense of certainty for businesses and consumers?

**Senator Gold:** Thank you for your question. The Government of Canada is confident that the measures they have put in place — as have been outlined and will continue to be made public in the months to come leading up to the next budget — are the right measures to protect the Canadian economy from the vicissitudes and the forces buffeting it from around the world, as well as to provide a strong platform for Canada’s recovery.

[Translation]

## HEALTH

### CANADA’S ACCESS TO MEDICINES REGIME

**Hon. Marie-Françoise Mégie:** My question is for the Government Representative in the Senate.

[ Senator Smith ]

Professors Gold, Liu and Morin, from McGill and Laval universities, issued the following statement in *Le Devoir* on December 11, 2021:

Taxpayers in wealthy countries have largely funded the development of new vaccines through public research, subsidies and purchase commitments. These same taxpayers can legitimately insist that developing countries have access to the vaccines as well.

The professors proposed that we amend Canada’s Access to Medicines Regime, or CAMR, to include vaccines, tests and other pharmaceutical products needed to combat COVID-19.

The CAMR makes it possible for less expensive drugs and medical devices to be produced and exported to developing countries in a health emergency, without waiting for authorization from patent holders.

Does our government plan to amend the CAMR to respond favourably to these requests to expand the list of medical products and create the right conditions for ending this pandemic?

**Hon. Marc Gold (Government Representative in the Senate):** Thank you for your very important question, senator.

The government is aware of the studies done by the professors you mentioned. I am friends with Professor Gold. We are not related, by the way.

• (1030)

As I’ve said many times, the government is working with its partners and with international organizations to ensure that everyone in the world can get vaccinated quickly. There are several possible ways to get there, and looking at intellectual property rights is one of them. The government is in talks with its partners to, quote, unquote, “change the rules” on intellectual property, in particular with respect to the Agreement on Trade-Related Aspects of Intellectual Property Rights, which was signed under the auspices of the World Trade Organization.

**Senator Mégie:** Although you said that the government is working very hard on this matter, Canada is one of the few remaining countries in the World Trade Organization that have not explicitly stated their position on temporarily suspending the rules. Nearly all developing countries, France and the United States have already supported this initiative. If the suspension is to be effective, Canada must insist that there be a concurrent transfer of know-how and equipment to developing countries. Many countries would be able to produce vaccines if they were free to do so and could rely on our support. Does the federal government plan to support this suspension? It will not work without that support.

**Senator Gold:** Thank you for your question. I will speak to government officials and get back to you as soon as possible.

[English]

## IMMIGRATION, REFUGEES AND CITIZENSHIP

### AFGHAN REFUGEES

**Hon. Marilou McPhedran:** Honourable senators, on December 16 this week, the long-awaited mandate letters were released. In the mandate letter of the Minister of Immigration, Refugees and Citizenship, the Honourable Sean Fraser, this is stated:

With the support of the Minister of Foreign Affairs, continue to facilitate the safe passage and resettlement of vulnerable people from Afghanistan, with an emphasis on individuals who supported Canada and our allies over the past two decades, women, LGBTQ2 people, human rights defenders . . . .

The list goes on. It ends with the statement, “. . . increase the number of eligible refugees from 20,000 to at least 40,000.”

Senator Gold, there are many desperate people in Afghanistan. Some of them, though, specifically meet the criteria of this high priority group. One of them wrote to me more than three months ago. I shared her information with some senators as well as some very high-ranking people. We have all reached out because this particular woman — and I will use her name, Zora — meets all of the requirements. People working at her side in the non-governmental organization funded entirely by Canada are out. We have made numerous attempts — I count five so far. Documents have been lost. Automatic replies have been sent when more specific attention should have been paid. There have been documented death threats to Zora and her family. It goes on and on.

All I would ask of you, Senator Gold, is to please convey this to the minister, to the Prime Minister and to everyone to whom it's now clear that we have made a commitment as a country? It has been confirmed in the mandate letter that we must increase the number to at least 40,000. Please, could we see an acceleration and a focus on those who meet our highest-risk definition, including women like Zora?

**Hon. Marc Gold (Government Representative in the Senate):** Senator, thank you for your question and for raising her case, which is unfortunately emblematic of far too many.

Yes, indeed, the mandate letter reaffirms or concretizes a commitment that this government has already made, about which I've spoken, to welcome at least 40,000 Afghan refugees. There have been close to 10,000 already processed, and over 5,000 are here. Much more needs to be done, and as quickly as it can be done it will be done. I will be pleased to communicate your questions and concerns to the appropriate ministers.

## ORDERS OF THE DAY

### CRIMINAL CODE CANADA LABOUR CODE

#### BILL TO AMEND—SECOND READING

**Hon. Hassan Yussuff** moved second reading of Bill C-3, An Act to amend the Criminal Code and the Canada Labour Code.

He said: Honourable senators, it is my honour to rise before you today to make my maiden speech in this place on Bill C-3, An Act to amend the Criminal Code and the Canada Labour Code. I don't think there could be a better piece of legislation to mark the occasion for me than Bill C-3. Many people have asked me why I chose to become a senator and what will guide me in my role. I simply said, “If it is good for the country, it is good for me.” I believe the bill before us today is good for the country, and I would like to explain why it deserves our support.

The bill is about learning lessons from this pandemic to make things better and to provide stronger protection for sick workers — Canadians — and to provide access to our health care system in the future. The pandemic has taught us that anything less is unacceptable for our economic, social and mental well-being. This bill recognizes the fundamental right of workers to be able to freely, without threats of job security and financial security, take time off from work to look after their health and well-being.

It also recognizes a fundamental right for workers in the health care sector to be able to go to work unimpeded and without threat of intimidation, while at the same time ensuring that constitutional rights to strike, peacefully assemble and freedom of expression are protected.

The pandemic has exposed many gaps and shortcomings in our society. It has shown the best and worst, both of us as people and of the programs and protections that Canadians rely on for their economic, social and physical well-being.

I want to talk about the gaps that have been exposed, and why we need Bill C-3. For workers, the pandemic laid bare how little employment protection they've had for sickness, not only for themselves but also for their employers in the health care system, as workers are forced to decide between their financial well-being and their physical well-being.

To put this in context, try to understand a person who works in a federal jurisdiction for minimum wage having to take time off to deal with their sickness and losing a day's pay, or two days' pay or three days' pay, simply because their employer does not provide paid sick leave. For that worker, the challenge will be to see if they can make rent, if they can buy groceries and if they can take care of their family.

Honourable senators, we all know this is unacceptable in our country. Bill C-3 is an attempt to remedy that. I know we have much work to do at the provincial and territorial levels, but fundamentally this goes to the heart of the concern for people

who have risen to the occasion when this pandemic hit our country. They did not run and hide. They went to work to ensure the services that we want were provided despite the fact they knew they could get sick, despite the fact they knew they could lose time from work and not get paid, and yet they performed their service. This bill has risen to the occasion to address their concern.

• (1040)

Equally and symbolically, by the federal government tabling this legislation, it also sends a signal to our provincial and territorial governments that we must do better to protect workers in this country. I hope you will guide us as we move forward.

Our federation is unique. Many different jurisdictions are responsible for the Labour Code, and we must respect that, but equally, the federal government can provide leadership, and I believe Bill C-3 does exactly that.

Currently the federal jurisdiction provides three days of paid leave that can be used for personal illnesses and injury. Only two provinces have permanent paid sick leave. Prince Edward Island provides for one day of paid sick leave after five years of continuous employment with their employer — one day after five years of service. Quebec provides for two days of paid leave after a year — two days. Most recently, British Columbia, as of January 1, 2021, provides employees with five days of paid sick leave. As you can see with these statistics, we have a long way to go in this country and this is just part of that journey.

In 2019, Canadian workers took an average of 8.5 days of leave for illness and disability. Clearly, the existing leave entitlement in the Canada Labour Code is not enough as currently designed.

The broader issue in regard to the passage of Bill C-3 will set a process so our federal government will have to engage with the provinces and territories on how we can do better, and I think that is the rightful place for a federal government to be — to show leadership but at the same time to work with the provinces and territories to ensure we can do better.

Honourable senators, you know and I know we're not yet out of this pandemic. We may have much distance yet to travel. As we are about to adjourn, a new virus is upon us. We don't know what the consequences to the economy and working people will be, but we know one thing: The efforts in this bill will certainly give workers more certainty; should they get sick or have to take time off in the federal jurisdiction, they will benefit from this legislation. They are looking forward to the passage of this bill.

It's always been a challenge for working people, of course, to advance their interests and their collective interests. I don't need to tell you about the millions of workers in this country who are working in precarious conditions every single day. They don't complain about it. They're hoping that their elected representatives and their representatives in the Senate would do better to understand their challenges and the difficulties they face. I think this bill goes to the heart of that.

I want to thank honourable senators for their efforts in improving the bill. There has been a lot of collaboration in this chamber to say, as we look at the bill as it was tabled, we could do better. Those efforts were recognized in the other place. There have been some changes and improvements to the bill. I want to thank colleagues who have collaborated, who have provided guidance, assistance and leadership, and who have helped me, of course, with the work I was doing. Once again, it shows that the Senate is playing an important role in improving government legislation, which is part of our responsibility in this chamber.

The bill will provide federal jurisdiction workers something that no other workers in this country currently have, which is 10 paid sick days. You see many of these workers in your journeys in life. When you go through an airport, whether it's today or tomorrow or over the holidays, take the time to recognize that many of the workers in the airport work for minimum wage and don't have paid sick leave. This legislation will touch their lives.

Think of all the trucks and highways and roads you see constantly that are in the federal jurisdiction and bring goods and services to us during this important, difficult time. Many of those truck drivers work long hours, yet they don't have the protection of paid sick days. This legislation will change that reality.

More importantly, it would also send a message to the workers in this country, who have sacrificed so much in this very difficult moment of the pandemic, that we have their backs.

Paid sick leave will support employees experiencing temporary illness in three ways. It will protect their income so they don't have to worry whether or not they meet their grocery bill or rent bill at the end of the month. It will protect their jobs by preserving their relationships with their employers while on sick leave. Third, it will protect their health by allowing them to recover more quickly at home, rather than continuing to go to work while sick. It also promotes a healthier workplace by encouraging sick workers not to go to work, reducing the risk of spread of communicable disease.

Regarding earning paid sick leave, employees will earn one day of medical leave with pay after 30 days of continuous employment with the same employer to a maximum of 10 days in a year. Accumulating sick leave will begin on the first day of employment. After the first 30 days, the employee will receive access to three paid sick days to better protect employees at the beginning of their employment. Unused sick days in every calendar year will be carried forward and then deducted from the 10 days' entitlement the following year. For example, an employee who has six paid sick leave days will be able to earn a maximum of four days in the next calendar year. The government has amended the bill to provide three days after the first 30 days concerning the views, of course, of the opposition in the other house and many of those who have testified to the Senate Social Affairs Committee and senators who have been arguing that we should do better in regard to this section of the bill.



The goal is expanding paid sick leave across the provinces and territories. The change to the Canada Labour Code will send a powerful signal to workers across this country that we need to build a stronger safety net for them, and hopefully, of course, our provincial counterparts across this country will sit down with the federal government and figure out how to do better. Although this only applies to approximately 1 million workers in the federal jurisdiction, the government has committed to take a leadership role in working with the provinces and territories to make sick leave a reality for all workers across this country.

Bill C-3 also deals with the issues of health care workers' protection. Health care workers have long faced difficult working conditions, including violence and threats of violence in the workplace. This situation is exacerbated by the COVID-19 pandemic. The Government of Canada has taken action, introducing amendments to the Criminal Code to enhance the existing protection for health workers and ensuring that everyone can access health care services safely across this great country of ours. These amendments will create a specific intimidation offence and a specific obstructing access offence to protect health care workers and persons seeking health care in this country.

For many health care workers, this amendment to the Criminal Code responds to a long-standing concern about their ability to work in an environment free from violence and threats. Preliminary results emerging from the 2021 National Physician Health Survey provided to me by the Canadian Medical Association suggested over 75% of physicians have experienced intimidation, bullying and harassment in the workplace, and the issue is even more pronounced for women — 80%. More than 33% of those reporting experienced it at least a few times a month.

Honourable senators, we are fortunate to work in this environment. We don't have to face harassment and violence to come to work. We don't have to perform our services with a threat over our head. We don't go to our jobs, day in and day out, knowing full well that we will experience the same harassment we experienced the day before, because this chamber has recognized that it's unacceptable. Why is it that health care workers in this country can't have the same benefit we enjoy every single day while doing our jobs? I think this legislation gets to the heart of the issue and sends a clear message.

• (1050)

In 2019, a report conducted by the House of Commons Standing Committee on Health entitled *Violence Facing Health Care Workers in Canada* documented that health care workers have rates of workplace violence four times higher than any other professional, despite most of this violence being unreported. Most Canadians would not know the statistics, because when we show up at the hospital we get the care we require. Those people don't run away from their responsibilities, despite the adversarial conditions they work in. They remain there to perform their services and to ensure Canadians can access the health care they need in this country. They do it because they recognize that they can make a difference in the lives of those who come to receive the services they deserve.

Everyone deserves to be safe when working and providing medical care. It goes without saying. Health care workers and those who assist them must be able to perform their duties without harm or intimidation, and Canadians seeking health care or visiting a sick family member must be able to access the service safely.

The Government of Canada is sending a strong signal that intimidating health care workers and those seeking access to health care services is not acceptable, nor is the obstruction of access to health care facilities. The amendment will create a new sentencing provision in the Criminal Code that will require courts to consider more serious penalties for offenders who target health care workers engaging in their duties, or who impede others in obtaining health care services. An individual who tries to make health care workers or a person trying to access health care fearful — or to stop them from providing or accessing health care — could be charged with a new intimidation offence and be subject to a maximum term of imprisonment of 10 years when prosecuted by indictment.

This does not make protesting outside of a hospital where employees are on strike at health care facilities illegal. The federal government is committed to upholding and defending the Canadian Charter of Rights and Freedoms, including the right to freedom of expression and peaceful assembly. These changes to the law will respect workers' freedom to take labour action and organize, as well as Canadians' freedom to voice their concern and protest in a safe and peaceful manner. This is fundamental to our constitution, and all of us would agree that this cannot be trampled upon. This is fundamental to what this country is about. Honourable senators, I know this legislation may not meet the expectations of all in this chamber, but I can tell you that it goes a long way.

There was one amendment that made it into the legislation in the other place. Honourable senators, the loss of a family member is one of great grief and sorrow. The loss of a child is devastating. Sometimes it has profound consequences on the mental well-being and has a dire effect on one's work. Based on a report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, in 2016 there were 2,720 deaths of children under the age of 18, and 3,063 stillbirths. There is an amendment in Bill C-3 to provide eight weeks of leave for parents who are confronted with this unspeakable tragedy. This is a compassionate amendment that will support parents when they need it the most. None of us will disagree that this is the right thing to do.

In conclusion, this legislation is about building a better Canada from the lessons we have learned during the pandemic. I know there is more to do, but more importantly, colleagues, what Bill C-3 outlines in these two sections will move this country in a significant way. There are far too many people who work in precarious conditions in this country. They need to know that we are listening to them and that we are hearing their voices for change so they can work in better conditions. It is critical for us to understand how profound this legislation is to working people. I had the privilege of representing over 3 million of them for 22 years. I never thought I would be in this chamber to continue in this effort with fellow colleagues.

Bill C-3 will provide statutory protections for nearly 1 million workers to have paid sick days — the first of any jurisdiction in this country. It gets us to the Organisation for Economic Co-operation and Development, or OECD, standard around the world. It's unfortunate that it took a pandemic to get our attention, but, as they say, it is never too late. It will also protect the physical and mental health of health care workers who are working hard to save the lives of Canadians stricken by COVID, as well as those administering the vaccines that protect millions of Canadians from contracting the disease.

I want to recognize, of course, my Senate colleagues and the witnesses who have come to testify before the Senate committee to make the arguments they did about why we should pass this bill. The Canadian Medical Association can't thank us enough for passing this legislation. The Service Employees International Union, or SEIU, the leading health care union in this country, pleaded with me to get this done. They have had members die during this pandemic while providing health care services because they didn't have access to PPE and didn't have sick leave. When the pandemic hit, they couldn't stay home to do their jobs. They had to show up.

CUPE represents health care workers in many parts of this country as well as custodial workers who are faced with violence, and yet they go to work every single day to meet their responsibilities. Unifor health care workers, the Canadian Federation of Nurses Unions, the National Union of Public and General Employees, or NUPGE, and the Canadian Labour Congress, all of these organizations have urged us to pass this legislation because it will send a clear message to these workers, who again will have to don their helmets and protective suits to ensure that, as this new variant has hit our country's shores, they will be there to do what is necessary, as they have done before.

I want to thank you, honourable senators, for listening to my remarks. More importantly, thank you for your service and friendship.

**The Hon. the Speaker:** Senator Yussuff, I see a couple of senators have raised their hands, presumably to ask a question. Will you take a couple of questions?

**Senator Yussuff:** Yes.

**Hon. Scott Tannas:** Thank you, Senator Yussuff, for a very inspiring speech.

I was looking at the pre-study that was done by our Standing Senate Committee on Social Affairs, Science and Technology. There was a concern raised with respect to a lack of clarity around what's known as the "stacking" of rights. Essentially, through your good work and that of the union movement, as well as the good employee relations of many, many organizations within the federal regulation — I'm thinking of banks and other large institutions that come under federal oversight — sick leave benefits exist within much of the federally regulated workforce.

The question that was asked, and the lack of clarity that was pointed out by the Standing Senate Committee on Social Affairs, Science and Technology, was whether or not this legislation was intended to be on top of existing benefits that employees have or whether this is a minimum that all employees should have. Can

you provide clarity on that? There was a recommendation that some clarity be put into the bill, but I don't think it made it into the bill. Could you comment? Maybe it did and I missed it. We're moving quickly here. Could you comment on this, please, and give us some clarity?

• (1100)

**Senator Yussuff:** Thank you, Senator Tannas, for your question.

You are right, this issue was raised with the witnesses who came before the Standing Senate Committee on Social Affairs, Science and Technology; both by my former colleagues and friends that I was working with at Federally Regulated Employers — Transportation and Communications and other witnesses.

I think the minister did circulate a letter saying they are going to have to address this in the regulations. More importantly, the 10 days is for workers working in the federal jurisdiction, and I think it is important that the government clarify this in the regulation. I think it's contained in this letter.

[*Translation*]

**Hon. Diane Bellemare:** Thank you, Senator Yussuff, for your presentation. It was very informative.

Naturally, I am in favour of this bill. It is about having decent work, minimum standards and public health, at a time when people who are not protected find it difficult to stay home when they have a communicable disease, since they are not always aware they do. I believe that this is a very important aspect of this bill.

My question revolves around the ability or the willingness of businesses in this matter.

I know that this bill covers federally regulated businesses. These are generally larger firms that already offer benefits. From what I know about this, the Canada Labour Code has often been amended as a result of negotiations between the big unions and businesses.

Does this bill have a meaningful and significant impact, or were the large firms already offering these minimum benefits?

Also, do you still want the Canada Labour Code to be amended in future, as part of negotiations between major associations or the union movement and businesses?

Could you please comment on that? Thank you.

[*English*]

**Senator Yussuff:** Thank you, Senator Bellemare, for your question.

As you know, a number of workers and employers already, of course, provide for paid sick leave through their negotiated process or outside of that. The reality is there are far too many

workers for whom it's not covered because they didn't have success at the bargaining table to achieve the 10 days of paid sick leave.

I think these amendments are going to improve the opportunity for those who do not have it, but at the same time, for those who exceed the code, I think it shows that efforts by their employers and their unions is something that we can learn from. More importantly, I think within the provincial jurisdiction, where 90% of workers reside in this country, we have a long way to go. Based on the statistics I provided this morning — whether in Prince Edward Island or in Quebec or more recently in British Columbia — we know there are tremendous gaps. In Ontario, there are just emergency measures that provide for sick days. There are no permanent amendments in the code in Ontario. I think that will be the discussion we need to have.

I'm hoping that as a result of the passage of this bill there will be far more engagement across this country to recognize that all Canadians, regardless of the jurisdiction they work in, should have paid sick days as a fundamental right of going to work. We know what this pandemic has revealed. If you have any symptom of the virus and you go to work because you have to, and you can't take the time off, you are going to affect others. It's going to have a profound effect on the workplace and it could have a profound effect on the colleagues you work with.

Given our efforts to try and prevent Canadians from getting sick — through vaccinations, through wearing masks and washing hands — we need to recognize that paid sick days give workers the comfort to ensure they can take time off when they need it. Equally, I think we need to recognize both employers and unions need to work harder to ensure all workers in this country have paid sick leave as a fundamental right of going to work every single day. It is something that is the norm in a lot of European jurisdictions. In Canada, we have a long way to go to achieve those same objectives.

**Hon. Paula Simons:** Would Senator Yussuff accept a question?

**Senator Yussuff:** Yes.

**Senator Simons:** Like most Canadians, I was horrified by the sight of angry mobs of people intimidating hospital workers and patients outside of hospitals, screaming abuse at parents and children outside of vaccination clinics, but I also worry about unintended consequences. When I look at this bill, I am concerned about the prospect of a provincial government misusing this bill against strikers, especially health care workers, outside of a hospital during a strike where emotions are running high.

With your background in the labour movement, what assurances can you offer me and Canadians that there are going to be sufficient safeguards that this legislation is not misused to affect the right to strike and the right of strikers to protest outside of health facilities?

**Senator Yussuff:** Thank you for very kindly, senator, for your question.

As you know, when the Minister of Justice did come to the Standing Senate Committee on Legal and Constitutional Affairs, this question was asked of him on the record. He stated very clearly that this is not the objective of the legislation and those fundamental rights are protected.

As a former leader of the Canadian Labour Congress and having spent a lot of time on picket lines and protests, I understand fundamentally what those rights are all about. I think there are safeguards, but of course we still have an independent judiciary in this country. Should any provincial jurisdiction overstep the limitations that are in this legislation, we have a course of action to restore those imbalances should they happen. But I am very conscious of this fact. That is why I asked the minister the question when he came before the Legal Committee.

**Hon. Marilou McPhedran:** Honourable senators, my question is for Senator Yussuff. Would you accept it?

**Senator Yussuff:** Yes, I will.

**Senator McPhedran:** Thank you very much.

As many have mentioned, Bill C-3 is welcome and it is also long overdue. The issues that this bill is seeking to alleviate — the expansion of paid sick leave and sadly needed protections for health care workers to counter violence, harassment and aggression — were identified at the very outset of this pandemic almost two years ago. The government has been pressed continuously to bring the legislation forward. It's here now and it's important that we process this as quickly as we can.

However, Senator Yussuff, as you have stated, this legislation covers only those workers under federal jurisdiction, which amounts to less than 10% of the Canadian workforce. My question is geared to the implementation of the standards and the protections in this bill.

We have optimism about this legislation, but the danger we have all seen many times before is that hope and optimism do not always translate into legislation and implementation of a new law.

Given your long professional experience with Canadian unions and the worker environment, do you have specific suggestions or strategies that you are promoting or will promote in order to ensure that federal and provincial negotiation occurs, and there is a much wider implementation process of the protections of this law?

**Senator Yussuff:** Thank you, senator, for your question.

Once this bill is passed, there is no question that the reality that we are now faced with is how we will engage at the provincial and territorial level to broaden the scope of workers' protections in those jurisdictions.

As you know, this federation of ours has always been a bit of a challenge. It has its optimistic moments when things happen and there are times when we struggle.

A long time ago, not so long ago, we started some work to bring forward protection for domestic violence. When we started the effort, not a single province, including the federal government, had protection for workers suffering from domestic violence. In a very short period of time, in less than seven years, every single jurisdiction in this country now has legislation that protects workers from domestic violence. It allows them to take paid time off to achieve that.

I know some provinces might resist bringing in paid sick days for workers in various jurisdictions, but I am convinced that the labour movement will see this as an opportunity to push even harder. Other activists and groups will join them in that effort, of course, to try to get our province — I am hoping equally, as the Minister of Labour has indicated in his letter, he will convene his provincial counterpart very shortly to have a very fundamental discussion on how they can work together to achieve this objective.

• (1110)

Our federal government certainly has provided many supports to the provinces to help them achieve some equality in regard to how we have dealt with this pandemic. I'm hoping similarly the federal government provides some leadership with the provinces to ensure they can bring in sick leave to complement what we are doing here in the federal jurisdiction.

**Hon. Donna Dasko:** Senator, will you take another question?

**Senator Yussuff:** Yes.

**Senator Dasko:** Thank you very much for taking on the sponsorship of this bill. This is a very important bill, requiring 10 paid sick leave days for federally regulated workers. It's especially important now with the new COVID variant that we have been confronted with. It is very important that the federal government has taken a leadership role in this area.

As a member of the Standing Senate Committee on Social Affairs, Science and Technology, a number of issues were raised which you referred to in your speech. One of them is an issue that I have just a little bit of confusion on, and that is the coming into force of this law. It was raised at our committee. I'm left with a little bit of confusion about it. At one point there was a suggestion that, in fact, it wouldn't come into force until negotiations were done, and this didn't seem to be quite right. I don't know if there is any truth to this.

Obviously, negotiations with the provinces are going to be difficult, because I can name at least one province, the one where I live, where I think there will be a lot of kicking and screaming before they move in the same direction as the federal government.

My question is: Can you provide some clarity to the issue of the coming into force of the bill and of the law, this being especially important now in terms of paid sick leave given the new COVID situation that we are in?

**Senator Yussuff:** Thank you, senator, for your question.

In regard to the implementation of this bill, the federal government does not require provincial consent, of course, to implement the law.

There is a need to bring some regulatory regime that will complement the implementation of the law, and there is a process for doing so. In doing that, regulations have to be gazetted. The government can pass an order-in-council to move that process along much quicker than the traditional way, which will take about 90 days.

There has been discussion with a recognition that the federal government will need to consult with employers, unions and others with regard to the implementation. I believe that can be done in a very short time. This legislation can be enforced and be taken advantage of by workers in the federal jurisdiction certainly within the next 60 days, as we will be in this position. It is my hope that the minister and his staff will work diligently during the holidays to try to accomplish that. There is a mechanism. I know from my past that there are ways for the government to do so, if they desire.

With regard to the negotiation with the province, you are right to acknowledge this reality; I don't think the province will simply come to the table and say, "Thank you very much, we'll do what you ask us to do." It has never worked that way. I don't think it will work that day on this bill.

I think there is a lot of goodwill to recognize that workers at the provincial jurisdiction equally, as they have been in the federal jurisdiction, are the ones who have kept this economy going. Those workers deserve the recognition that, when they get sick, they should not have to lose pay to go to work. It is a way to fight the pandemic. It is a way to win this fight against the pandemic. It is also a way to send a message to those workers that what they are doing to keep this country going matters, and we are going to have their backs.

I hope that our provincial leaders will listen to the advice of the federal government, and take some leadership from them as to how they can work together to achieve the greater good of Canadians right across this country.

**Hon. Scott Tannas:** Honourable senators, I want to thank Senator Yussuff for his tremendous work on this bill.

Yesterday, our group came under some significant pressure not to refuse leave, such that we would have allowed the bill to be passed last night. I won't say there was intimidation, but there was pressure, and a lot of it. In fact, when we refused leave that was requested by Senator Gold, I heard a senator shout, "Shame."

I would like to, for the sake of some of the new senators, and also to remind those of us who have been here longer, what should be happening now at second reading of this bill.

We should have a speech from the government sponsor; we have had that. We should have a speech from the critic; we don't have that. We should have speeches from others, and we are, in fact, having that. We should, as senators, be sitting and listening and thinking about the intention of this bill, and considering whether or not it is worthy for further consideration. That's what

a second reading vote, which we will shortly have, is about. It is a vote to ratify if the bill is worthy of further consideration. Typically, then, once we have that vote, and if it passes, we would refer it to committee for study.

In this case, we had a pre-study done by the committee. But even in matters of pre-study, we would refer it back to the committee for clause-by-clause consideration. They would also examine the bill in its final form and see if there had been changes from the pre-study, and see if their concerns that had been outlined and enumerated in pre-study — which is one of the reasons why, sometimes, pre-study gets done — were dealt with by the government and amendments put forward in the House of Commons.

In this particular case, there were changes made. There were concerns raised by the Standing Senate Committee on Legal and Constitutional Affairs that were largely ignored. There is a whole new section in the bill dealing with bereavement leave. In Senator Yussuff's speech, I noticed that it was the last thing he talked about because it was a last-minute addition that was done in the House of Commons for wonderfully good reasons. Nonetheless, the details of this amendment and this whole new section were hot off the press last night.

I would expect that normally the committee that completed the pre-study would have some work that they would do in order to bring us clause-by-clause consideration, potential amendments and a final report before third reading. That's how it should work. If that worked, then at that point we would have a bill with potentially some Senate amendments, or at least we would have a report that said all our concerns were dealt with, or not; this is still a concern, and this is still a concern. We could then say that the important quality control component of what we do was finished. That part of our sober second thought was done, and we could now move on to a fully informed debate in third reading of the merits of the bill as it was before us. None of this will happen. Why?

We have heard in some quarters that the bill is so urgent that we just simply can't wait. Senator McPhedran raised the fact that a number of these issues have been around since before COVID, and they were certainly highlighted during COVID, but we are two years into it. I think it is debatable, at least, just how urgent this bill is and that it get passed with us waving it through.

• (1120)

We also heard, even though there were last-minute amendments and a lot of drama in the House of Commons, that we can't put through any amendments to improve the bill in any way because the House of Commons has gone home, so there is no point in putting amendments forward. That speaks volumes about a number of things that I won't even bother to get into right now.

The final one that always signals that there are problems with the bill is the famous letter from the minister that things will get fixed, and I see that features with this bill as well.

So colleagues, in a few minutes we will be asked to forgo our rights and obligations instead of doing our full and complete job on a bill with, to say the least, a very unusual legislative journey through the House of Commons.

It's a bill that brings significant permanent changes to the Criminal Code and employment law in Canada and is arguably not an emergency bill to address COVID-19. There are a lot of flashing red lights for sober second thought on the bill, notwithstanding the important and positive impact the bill intends to have on Canadian workers.

I submit to you that this is a shame. It's a shame that we will not be able to do our full and complete duty with proper time and all the levers we have to improve the bill.

In June, when we ended the last session, I think we all felt a great sense of pride that we had done our work, had done it well and were looking forward to better days ahead. I don't feel that way today. I think there is some reflection and potentially some action in the future that we need to take in order that we at all times are able to do the job that the Constitution and Canadians expect from us. Thank you.

**The Hon. the Speaker:** Senator Lankin, did you wish to ask a question or enter debate?

**Hon. Frances Lankin:** I wish to ask a question, Your Honour.

**The Hon. the Speaker:** Senator, would you take a question?

**Senator Tannas:** Absolutely.

**Senator Lankin:** Thank you, Senator Tannas. I want to say up front that I wish to associate myself with everything you said. I agree with you completely. I would like to say every single senator probably agrees with you, though I don't know that to be the case, but I would say with certainty the majority would agree with you. Others have spoken to this in other bills and other situations at other times, and it continues.

There is a time for the Senate to engage on this, and I think now it is the time as we look to enter a new sitting in the new year. I would like to ask you if you would be willing to work with other senators, representative of each of the groups, to develop a proposal or a plan for engaging this Senate in a principle statement about what we expect in our relationship with the House of Commons in exchange of information, and to engage in developing a strategy for talking to the federal government; moving, passing a motion; essentially how we move the ball from A to B to get to a place where we are able to do the valuable work. Because one of the things you didn't say, but I know that you believe, is that unless we are able to do that, Canadians aren't well served. There isn't value for the money they are paying for the operation of the Senate, and bills with mistakes, missed opportunities and a profound impact — good and bad — on Canadians will go through this place without the attentive review they need. Thank you for the opportunity to enlist your leadership on this issue.

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

**Senator Tannas:** Thank you. I agree. It's time. We need to commit to ourselves, and maybe that's the Christmas feeling we get out of this — that we commit to ourselves that when we do not have our backs to the wall, we will soberly and carefully come up with a proposal for that kind of statement and that kind of interaction with the House of Commons, such that we really do break this incredible cycle we're in; being forced to surrender our job for time.

**Hon. Leo Housakos (Acting Leader of the Opposition):** Would Senator Tannas take a question?

**Senator Tannas:** Indeed.

**Senator Housakos:** Senator Tannas, I understand your perspective, and you have heard me many times echo that perspective in this chamber.

Wouldn't you think in this particular instance, given that this bill has gone through the House of Commons with unanimous support from all parties on that side, that we have an obligation as an upper chamber to respect the democratic will of the democratic house?

Second, there are a number of amendments so far in this Forty-fourth Parliament — the example you bring up — but there were many more amendments and proposals of amendments by the Senate Chamber in the Forty-third Parliament that have been ignored. Would you agree that if we had more distinguished colleagues from this chamber in the governing national caucus on the other side on a weekly basis — I know our colleagues laugh, but I come from an era in which we had some influence on building legislation at the national caucus — would you agree with that statement?

**Senator Tannas:** I would agree. In fact, in your speech last night you raised your discomfort with this method of dealing with legislation. I agree with that.

On the question of unanimity in the House of Commons and how that ought to be a signal for us to waive our rights and obligations, I could argue the opposite. We are here to divorce ourselves from politics, and believe me, we would have to be the most naive creatures on the planet to think what happened with this bill didn't involve a whole bunch of politics last night. It should be one of the first things we look at when there's something unanimous coming from the House.

We had another example of it. It was maybe a result on Bill C-4; a result that we were all hoping for, that we would pass that bill. But the fact it came unanimously should be a cause for pause for us, not the green light to wave the thing through without our having done our jobs.

**Hon. Denise Batters:** Senator Tannas, I appreciated how you raised some of the different parts of normal debate which have not been happening on some of these measures. I would put to you another one that I have been noticing frequently. The government leader in the Senate generally has not been giving speeches on these major government bills to allow senators the substantial opportunity we have to be able to ask the government leader questions, to hear, first, a lengthy perspective from the government's point of view as to why the bill is important and

then to give senators the opportunity for a much lengthier and more detailed period of time from someone who is in the Privy Council to answer questions. Would you agree that is also an important component, which, for too many government bills, has not been happening?

**Senator Tannas:** I sure don't want to make my friend and colleague Senator Gold uncomfortable, but you are right, Senator Batters. Senator George Baker, whose memory lives on in the chamber here — if we know him well enough, he is probably home in Newfoundland watching right now — used to talk about how the courts followed and based judgments on transcripts from the Senate.

• (1130)

One of the most important things that we have as an officer of the government is that we can ask a question of — and in fact we did it on Bill C-15 last spring where Senator Gold made declarations that could ultimately be important in court in the future.

So if for no other reason than that, I would say it doesn't have to be an epic speech, but to get up, say some words and allow questions like that to be put on the record is something I would hope maybe Senator Gold might think about in the future.

It's a very good point, Senator Batters.

[*Translation*]

**Hon. Renée Dupuis:** Would Senator Tannas take another question?

[*English*]

**Senator Tannas:** Yes.

[*Translation*]

**Senator Dupuis:** My question has two parts. Here is the first. I agree with everything you said except for the last sentence. You said in your first sentence that your group came under some significant pressure yesterday, and you even talked about intimidation. Those were your words. You said you did not agree with that and that you even heard the word "shame." I also heard that word and I think that it is unparliamentary and unacceptable.

My question for you is this: How should we interpret the last sentence of your speech today? You said that this bill brings significant changes to the Labour Code and the Criminal Code, but you ended by saying, "this is a shame." How should we interpret that, when you just complained about the use of that word at the beginning of your speech?

I completely agree with you, but aren't you yourself applying pressure and intimidation by using those terms?

[*English*]

**Senator Tannas:** You had two questions, but I just got one out of that.

[*Translation*]

**Senator Dupuis:** Here's the second part of my question. You talked about how the usual procedure wasn't followed. I agree. In the context of our work, shouldn't we mention the fact that we are agreeing to limit committee work because our representatives, be they facilitators or leaders, agreed on a course of action that the government is forcing us to adopt or at least trying to force us to adopt? Shouldn't that aspect be part of the work that you said was a good idea?

[*English*]

**Senator Tannas:** Thank you, Senator Dupuis, and you're absolutely right. I would not want to be quoted that this bill is a shame. It is not. It is very worthy and will provide further quality to the experience of employees under federal jurisdiction. I think it will provide important leadership for other provinces to follow. What I meant is it's an important bill, and it is a shame that it doesn't get the value from us that it deserves and — I would say, arguably, given the rather chaotic end to the bill in the House of Commons — that it quite rightly may need. So on that, I thank you for the opportunity to clarify.

With respect to your second question on the procedure, we actually just a few days ago reintroduced something that goes toward laying down a procedure to fast track that would require transparency and require someone to stand up in a debate and say, "This is why this should be fast-tracked," and explain to us and to Canadians why the normal processes that were thoughtfully put in place over the last 152 years need to be cut away so that we can quickly get something done. At least we would have that discussion in the open rather than at a leaders' meeting or with arm-twisting in the chamber to do something.

So you're quite right. That needs to be part of the reflection that we take, and we should take it again before our backs are to the wall and we are in this exact same situation again.

**Hon. Terry M. Mercer:** Would you accept a question?

**Senator Tannas:** Yes.

**Senator Mercer:** Thank you, Senator Tannas, for your comments. The preliminary part of my question is my usual rant at this time of the year in parliamentary life. You will hear it in December, and you'll hear a similar rant in June: When are we going to get our act together and defeat or not debate a bill that they desperately want across the street in the House of Commons?

It's not good to have the power to do it if you never use the power to do it. Yes, this is not the legislation to do it on because this is an important piece of legislation for Canadian workers. But, time after time, they say, "Oh, the House of Commons is leaving today. By the way, here are two bills that we must have before you can go home." Well, guess what? We are the masters of our own fate. We can table the bill, ignore the bill, not do anything with the bill or we could defeat the bill. But, sooner or later, this chamber needs to stand up and say, "No, I'm sorry. This is June 28. We're going home. We'll see you in September," and let them deal with the problem that they have created. It's not a problem that is created by senators.

**Senator Tannas** — I have to get a question in here so I haven't broken any of the rules — would you agree that we, collectively as 105 senators, need to find that moment and that piece of legislation that we will either leave on the Order Paper or defeat just to get the government's attention — and not just the government's attention, but the attention of all members of the House of Commons — so that we should treat each other with respect because this is not respect.

**Senator Tannas:** I think the whole thing that we need to do is try and escape — this feels very much like the days when you and I and others were part of caucuses, we accepted the whip and we didn't ask a lot of questions. We had a job to do, and that was to push through what our colleagues on the other side needed us to push through. I think it's an evolution that we need to go through and we need to do it purposefully.

With respect to defeating something, I hear you. Something that could be just as effective is to amend a bill after they've gone home, do our work, send the amendments to an empty house and then see how important it really is. That is the other thing that we may want to do is just simply restate that it doesn't matter whether the House of Commons goes home or doesn't go home; if we see amendments that are needed, we will do them. That may be an easier, simpler and probably more frequent case that we run into — like this one, potentially — where we could do our job without blowing up the world.

**Senator Mercer:** Thank you, Senator Tannas. I agree.

[*Translation*]

**Hon. Pierre J. Dalphond:** Would Senator Tannas take another question?

[*English*]

**Senator Tannas:** Yes.

[*Translation*]

**Senator Dalphond:** Thank you for those very important comments, senator. You raised a fundamental question about the role of the Senate.

I would like to hear your thoughts on two subjects.

First of all, isn't there a distinction to be made between carefully reviewing legislation, even legislation unanimously passed by the House of Commons, and respecting the House of Commons when it responds to our proposed amendments? Should the fact that a bill passed unanimously be a determining factor at the outset, when we are considering it? I'm not sure. When the other place sends back its responses to our proposals, showing deference to the elected chamber is important.

My second point is this: Shouldn't we direct our comments not only to the government, but also sometimes to the opposition in the Senate who, in the case of the conversion therapy bill, for example, ensured that the bill passed without this chamber having a real debate at second or third reading, or even a pre-study of the bill?

• (1140)

That bill was passed in just one afternoon, without any real debate or analysis. We failed to fulfill our constitutional duty, but I don't think we could blame the government that time.

[*English*]

**Senator Tannas:** I agree. I think it is incumbent upon all of us, on all sides of the chamber, to have on our Senate hat of sober second thought when we are confronted with these kinds of situations. That could easily, as it did, come in a motion from the Leader of the Opposition.

You're right; we missed an opportunity. It's not the fault of the Leader of the Opposition. He put forward the motion for good reasons and because he thought it was the right thing to do. It was our job — mine, other leaders and, indeed, every senator's — to have jumped up and asked for further clarification or whatever needed to be done. We did not do that, and so we passed a bill that perhaps we should have spent more time on, or maybe not. Your point is well taken, Senator Dalphond. Thank you.

[*Translation*]

**Senator Bellemare:** Would Senator Tannas take another question?

**Senator Tannas:** Yes.

**Senator Bellemare:** I agree with much of what you're saying. Your comments are very wise. They also give us an opening to question our processes and talk about the modernization of the Senate.

I have a question about your comments on the need for speeches to be given by the Government Representative in the Senate. Don't you think it's time we asked the minister responsible for a bill to come and present it to us in the Senate? We could set aside time for that presentation, which would be open and different from a Committee of the Whole. The senator presenting the bill would come answer our questions before we study it, perhaps at second reading. The fact that there are sponsors for bills in the Senate doesn't mean there couldn't be a spokesperson. What's more, the minister responsible could appear before us to present his or her bill so that we could ask him or her questions. We can debate whether this exercise should be done at second reading or third reading, but I'd like to hear your thoughts on this.

[*English*]

**Senator Tannas:** I'm not sure, but I think it's a question we could consider. It is important, and we did send a message some time ago — on Senator Plett's initiative, as Leader of the Opposition — that “no minister, no bill,” was the saying. We wanted the minister to appear at committee; the committee we delegate to do some of the heavy lifting research that needs to be done on a bill.

[ Senator Dalphond ]

Senator Plett and the opposition said the minister needs to appear at committee. If he doesn't, the bill doesn't come back to the chamber. I think that laid down a nice precedent for ministers to attend committee.

We should consider whether ministers should attend committee or whether we should simply rely on Senator Gold — or future government leaders in the Senate, in their capacity as officers of the government — to provide whatever necessary assurances or statements of clarity that we need. However, I couldn't say definitively right now whether that is something we should do.

**Hon. Ratna Omidvar:** Senator Tannas, will you take another question?

**Senator Tannas:** I will.

**Senator Omidvar:** Thank you, senator. I agree with most of what you have said. Even though I will likely vote for the bill today and I don't believe this is the moment for brinkmanship of any kind, I think this is an appropriate time to have this discussion. No doubt — as Senator Mercer pointed out — we will see the same situation again and we will beat ourselves on the chest and say, “Here we go again.”

We have a systemic problem and the Senate needs a systemic fix to this problem. During the six years I have been in the Senate, we have discussed all kinds of problems and solutions, we tabled the *Senate Modernization* report, and yet we've made no progress.

Senator Tannas, as a result of your intervention, when we return, can we expect to see a motion from you or others — but since you've raised this question, a motion from you — on dealing with the systems problem, possibly in the way Senator Lankin has identified? We absolutely need a solution so that we do not again find ourselves in the situation where we are hurried, rushed and not able to do the work we are supposed to do, even though we are the unelected people. I will put that as a proviso.

**Senator Tannas:** First, let me say that I will take on that responsibility, and I thank you for your comments. Over the break, I will try to assemble something of a consultative process amongst those who are interested, which could result in a motion that I can put forward on behalf of whatever group that is.

I also want to thank everyone for participating in this discussion. It is painfully obvious to me that I'm sitting in the comfort of my home right now, having left Ottawa yesterday morning, while a number of senators and all the staff are working an extra day so that we can have this conversation. It requires us to do the necessary work, given what we have done at CSG to bring this to light. Thank you to all. I appreciate all the comments.

**The Hon. the Speaker:** Senator Quinn, did you have a question?



**Hon. Jim Quinn:** Yes, I have a question for Senator Gold.

**The Hon. the Speaker:** The question can only go to Senator Tannas.

**Senator Quinn:** I will ask Senator Tannas.

I want to start by thanking my honourable colleague Senator Yussuff for his eloquent speech. It was well put. I am honoured to have been appointed to the Senate and sworn in on the same day as Senator Yussuff.

During my call with the Prime Minister about becoming a senator, he said to me:

You're not always going to agree with the policies put forward by my government. Your job is to add value to them. At the end of the discussion, you still may not agree with what my government is putting forward, but that's doing your job. I want you to do your job.

Yesterday evening, in Senator Housakos's eloquent speech, he said we shouldn't be a rubber-stamping type of process. I certainly didn't enter this chamber with the idea that I would be part of a rubber-stamping process. My first three weeks in the Senate has taught me some early lessons that maybe, in fact, we are going down that road. For those who have been here much longer than I, it sounds like this has been a challenge for some time.

I agree with all of the comments made by various senators about ensuring that the reputation of this institution is paramount — not only for ourselves, but for the parliamentary and legislative processes and, above all, for the people of Canada.

Senator Tannas, would you not agree that it's important that we heed the advice I was given by our Prime Minister and which was repeated by the Honourable Leader of the Opposition here in the Senate?

**Senator Tannas:** Thank you, Senator Quinn. I agree. When all is said and done, one of the most important legacies of Prime Minister Trudeau will be the changes he has brought to the Senate — if we choose to seize it, accept what they mean to the Senate, and make the changes we need to make in order to do what we're doing in the chamber, but also in our interaction with the House of Commons. I look forward to proceeding with that work with all senators.

• (1150)

[*Translation*]

**Hon. Marie-Françoise Mégie:** Senator Tannas, would you take a question?

[*English*]

**Senator Tannas:** I must be running out of time, but yes, I will.

[*Translation*]

**Senator Mégie:** Senator Tannas, with the emergence of the Omicron variant and the rise in cases of COVID-19, would you be in favour of allowing workers to have immediate access to measures that would let them stay home if they fall ill or have even mild symptoms, instead of going to work and infecting others at their workplace because they're afraid of missing out on income? Would you agree to implement this measure to reassure them that they're not required to go to work out of fear of not being paid? In my opinion, that is why it is urgent that we pass this bill.

I understand everything you said, and I agree that this business of forcing us to pass bills quickly on the eve of the holiday break is definitely getting to be a habit. I understand all that, and you're right, but I would like to know what you think about the situation we're facing today.

[*English*]

**Senator Tannas:** I'm not sure that it will immediately come into force, even if we pass it today. There are regulations that need to be done to clarify things.

We are two years into this, and there have been other responses and measures put in place to afford people the ability to take time off when they have COVID and not suffer financial ruin as a result. This isn't news; we're not just realizing now that folks are in a situation. Further, I think any employer that is still in business has a strategy to deal with this, which is there in the short term.

That said, this bill and our current situation with COVID highlight the need for these benefits, as Senator Yussuff so eloquently spoke to. The sooner the better, obviously, but it isn't going to be tomorrow, that's for sure. Thank you.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** It was moved by the Honourable Senator Yussuff, seconded by the Honourable Senator Dasko, that the bill be read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

BILL TO AMEND—THIRD READING—DEBATE

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

**Hon. Hassan Yussuff:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that the bill be read the third time now.

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

**Hon. Senators:** Agreed.

**Hon. Vernon White:** Honourable senators, I want to congratulate Senator Yussuff on sponsoring this bill and for the work he has done.

I want to be clear that the rationale behind the formulation of Bill C-3 has my support, but I want to raise a few concerns I have with the process by which we have gotten to this point, and I will offer an amendment that I believe is needed that might allow the police to act on offences under the Criminal Code of Canada that would be brought about as a result of this legislation.

Along with the other things we've heard about this bill, there is a piece of legislation that includes an offence with a sentence of up to 10 years in jail added to the Criminal Code of Canada. This was walked through the other place, where most, if not all, of their time was spent on the social and labour aspects of the bill. In fact, the bill was seen by the Human Resources Committee and the majority, if not all, of the review and amendments came in relation to sick days that would be provided to certain employees. On its face, that appears to be an appropriate and important social policy piece for Canadians who live and work without such coverage.

But we should ask ourselves this first: Why would two such very different pieces of legislation — sick days for employees, covered by labour law, and Criminal Code changes and serious jail time for those convicted — be put into the same legislation? It is beyond me. The truth is that there is absolutely no connection between these two important pieces of legislation.

We were asked to look at this legislation as a pre-study and, appropriately, we split the bill to ensure that our Social Affairs Committee would look at the human resources portion and the Legal and Constitutional Affairs Committee would pre-study the portions that were directly related to additional offences and sentencing provisions under the Criminal Code. What happened next should cause all of us to think twice the next time we are asked to do a pre-study.

I will only focus on the portions of this legislation in which I participated, since the bill as passed in the other place has never gone to any committee of the Senate. In relation to the changes under the Criminal Code and our pre-study, we met and heard from one witness, the Minister of Justice. During that meeting, the minister received many questions about the necessity of the legislation and questions regarding why the police and Crown were not using the Criminal Code interventions already available relating to intimidation, harassment, threatening, et cetera. In fact, I would hope that we could have asked those questions of the police and the Crown. In fact, after the one meeting, many stated that we could look forward to hearing from other witnesses when the bill arrived to answer questions around whether new offences were needed. Maybe we needed changes to the Criminal Code offences that are already in place to deal with the exact situations brought forward to protect health care workers and officials.

Maybe the bill is needed. Certainly, something must be done, without question, but possibly we could receive suggestions from other legal experts and those impacted by the actual events described, like health workers themselves; the police; and the

Crown, which we are arguing in the legislation does not have the tools already. I do not for one minute question the importance of our health care workers and that actions must be taken to protect them. I also suggest we must do it correctly.

Regardless of the pushback that might have been received, the minister was adamant that the legislation was needed to show support for the people who are doing the health care work in our communities. That's a good argument, but what about the legislation itself?

The minister was asked specifically about the breadth of the new offences and the coverage that would be found by expanding offences in the bill. The following exchange between Senator Simons and the minister, I would argue, clarifies the concern I have. The senator said:

And someone at their home? Because we've heard stories of health care workers being threatened online, protesters coming to houses, but also, more importantly, people posting their photographs and that kind of thing.

Minister Lametti answered:

It definitely applies online, and it was specifically conceived to apply to online.

The minister went on to say:

Given what I said before, if a doctor or nurse is providing health care services through their home at a clinic, say in a remote location or something like that, it would definitely, I think, be covered. If it were merely the health care provider's residence, then probably would have to resort to . . . intimidation that is under the code.

— in other words, to the offences that already exist, this legislation wouldn't pertain.

So the concern I have is that this new offence, while it might, in fact, be needed, does not cover the residences of health care workers and public health officials. It does not cover the specific incidents we have seen occurring across the nation in places like B.C., Saskatchewan, Ontario and, I believe, Prince Edward Island over the past months where public health officials, in particular, are intimidated, harassed and even threatened in their own homes.

While I am not convinced the legislation will provide much more than what the police already have available to them, the message might well be very important to those who would participate in such events. It is important that we tell the harassers, the intimidators and those who would threaten health care workers that the Government of Canada will do what it takes to support those workers when we can.

But should it not also be important that we are doing this in the right way?

Think about this. One witness was heard from on an extremely important area that will add a criminal offence to the penalties up to 10 years in jail. While I'm greatly concerned by the process that was followed, and I accept responsibility, as I sit on both the

Legal and Constitutional Affairs Committee and its steering committee, for allowing it to continue that way, I would argue that we should, could and must do better. We must ensure that these bills are fully reviewed and investigated.

I was concerned during the minister's appearance that many committee members had questions about the necessity of specific sections concerning new Criminal Code offences. I admit I was moved by the vision of health care workers being harassed and intimidated, which I have watched over the last number of months. I also believe that health care workers need to feel at least as protected by legislation when they are not at work, particularly in their homes.

There were many other areas where consideration could have been given for amendments, had we had the bill in its entirety after being passed in the House of Commons, such things as the seizure of vehicles used in a criminal offence and immediate fine systems — anything where immediacy can be acted upon in relation to offenders.

• (1200)

It is extremely difficult to deal with when we don't do clause by clause, and we didn't have the bill after it passed in the House. That is why I think it is important that this legislation clearly covers health care workers regardless of where they are. That is why I'm asking to amend this legislation.

My amendment will correct the area of weakness identified by the minister, in his own words, when he said that it would not cover serious incidents that may occur in the private residences of health care workers.

#### MOTION IN AMENDMENT NEGATIVED

**Hon. Vernon White:** Therefore, honourable senators, in amendment, I move:

That Bill C-3 be not now read a third time, but that it be amended in clause 2, on page 1, by replacing line 11 with the following:

“423.2 (1) Every person commits an offence who, in any place, en-”.

**The Hon. the Speaker:** Senator White, would you take a question?

**Senator White:** Absolutely.

**Hon. Paula Simons:** Senator White, I was the senator who asked the minister the question about intimidation at the homes of health care workers. This is a concern that I share, but it was your argument today — and I believe the argument of other senators at committee — that we didn't need much of this legislation because it was already encompassed in existing Criminal Code provisions.

Drawing on your own experience as a former police chief and police officer, do we actually need your amendment or are health care workers sufficiently protected under the Criminal Code as we have it now?

**Senator White:** Thank you for the question, senator. My perspective is that I don't necessarily believe the legislation is going to improve upon the tools policing needs, but if we are going to go there and say the role of health care workers and public health officials is so important that we will take care of them in a better and different way, then we ought to protect them from the intimidation we have seen them receive at their homes.

At the end of the day, I'm not sure it will help, but if we think it will help, then we should actually go as far as we can.

**Senator Simons:** Would the senator take another question?

**Senator White:** Always.

**Senator Simons:** This comes to the crux of how I'm going to vote on this amendment. I come from Alberta, where health workers have absolutely been intimidated in their homes, where they have received death threats, and where there have been disturbing and terrifying attacks, not just on health care workers but on our social fabric. At the same time, many of my legal and policing colleagues are telling me that we don't need this change at all.

If it's just a question of belts and braces, what is the impetus that we would need to vote for this amendment if you don't think it is going to do anything?

**Senator White:** Thank you, senator. In fact, the Standing Senate Committee on Legal and Constitutional Affairs has in the past raised the overlapping of criminal offences — that we need to stop building on the existing Criminal Code and start building a new Criminal Code.

I'm always back to the same thing: If we believe that this will help, if you would vote for this legislation, then the amendment will make it better.

I will vote for this legislation, as much as I'm concerned about the limited amount of time, if any, that we actually gave to make it better legislation, like some immediate responses. I think if we are concerned enough to say the legislation is important, then the amendment will make it a better piece of legislation and protect health care workers. It will send a message to those people — which I think the minister is trying to do — not to show up at someone's house, that you will be arrested, that you will be dragged off, because it is that serious.

I'm always back to the same point. I feel that this discussion of whether it's necessary should have taken place in committee, but it didn't. Instead, it's taking place here in third reading.

**The Hon. the Speaker:** Senator White, there are a couple of other senators who wish to ask questions. Your time is running out. Would you take a couple of more questions?

**Senator White:** I will.

**The Hon. the Speaker:** I would ask the senators who are asking questions to keep them very brief. We are running out of time.

**Hon. Frances Lankin:** Thank you, Senator White, for your contribution and your amendment.

I agree with you and your concerns about process. I don't want to talk about that anymore. We have spent more time talking about that so far today than we have about the bill that we're bemoaning we don't have enough time to talk about.

Coming back to the bill and your particular amendment, as you have indicated, there is plenty of opinion out there that while these particular provisions to change the Criminal Code may bring light, attention and messages of support, security and concern to health care workers, the actual enforcement actions could have been taken under the existing Criminal Code. Then you bring forward this amendment. I understand your rationale, that if it improves it, why not?

Provinces do most of the enforcement in the jurisdiction area we are talking about. They have access to tools as well. In particular, I'm thinking of the time in Ontario when I, as health minister, and Marion Boyd, as attorney general, brought forward an attorney general's injunction in response to the bombing of the Morgentaler Clinic and the threatening of doctors in their homes.

What research have you done to see what other provinces have done in terms of enforcement and the necessity, or not, of this? Given all the discussion we have had about perhaps finding a way to make the point on process — but this isn't the bill for brinksmanship, which I know we are prone to say often — why would you suggest this should be the bill we send back to the House of Commons at this point in time and potentially further delay the impact of this bill, just to get support to Canadians who are in need? Thank you.

**Senator White:** Tomorrow is not Christmas. The reality is that amending this bill does not mean it does not get dealt with. As we know, everything can be done virtually. It could be done later on today or on Monday or Tuesday. There is no immediacy for us to even pass a bill, other than the fact that we have been told there is immediacy. In fact, last week the minister said that they welcomed amendments from the House and the Senate if deemed necessary for this legislation to pass. I'm arguing that if this legislation is necessary, this amendment is important.

On the first point, I haven't looked at what other provinces have done, but if it's in relation to the Criminal Code, unlike other jurisdictions such as Australia, we only have one; the federal one. So if we're going to have Criminal Code offences, we have one opportunity and location and that's here. Thank you.

**The Hon. the Speaker:** Debate on the amendment. Senator Tannas.

**Hon. Scott Tannas:** Thank you, Your Honour. I have listened to the questions and the discussion. Everything that I wanted to say has been said, so in the interests of time, I will pass. Thank you.

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senators, I rise today to speak briefly to Senator White's proposed amendment to Bill C-3, which the government opposes.

I would note for the record that the government carefully considered this issue during the Senate's pre-study as it sought to proactively respond to the Senate's concerns. But on policy grounds, the government cannot support this proposal for the following reasons.

[*Translation*]

I certainly agree with Senator White that we must do everything we can to protect health care workers. They have been nothing short of heroic this entire pandemic and have earned the respect and gratitude of most Canadians. Unfortunately, they have also been subjected to intimidation and abuse.

This problem has been around for a long time, but it was exacerbated and exposed by the pandemic. That is why, during the most recent election campaign, the government committed to making this bill a priority. Seeing as we are debating the bill today, the government clearly followed through.

• (1210)

[*English*]

Colleagues, it is important to note that health care workers are strongly supportive of this bill. The Canadian Nurses Association told the Social Affairs Committee that Bill C-3 “will help protect health care workers from threats and harassment” and “assist in retaining nurses in the workforce . . . .”

In a written submission, the Canadian Medical Association said it:

. . . applauds the federal government for taking rapid action and introducing new legislation to protect health workers from threats, intimidation, and violence . . . and respectfully urges Parliament to support its enactment.

Clearly, the people this bill is meant to protect think it hits the mark.

As we have heard, Bill C-3 would create two new criminal offences. The first, intimidation, covers any attempt to provoke a state of fear in order to impede delivery or receipt of medical care. This offence would not be place specific nor time-specific. If you approach a health care worker and say, “Stop vaccinating people, or I'm going to beat you up,” you are guilty of this offence whether you do it at a hospital, private residence or grocery store, wherever. Importantly, it also applies to intimidation that occurs online.

The second offence covers interference with lawful access to a place where health services are being provided by a health professional. This doesn't have to be just a hospital or a clinic. If health care is being provided in a private home, then it could apply there. If a vaccination clinic is being run out of a school gym, it could apply there. The key element is the provision of health services, not the place itself.

May I also point out that the law also provides considerable protection for private residences, often to a greater degree than public spaces. So depending on the activity in question, a person engaging in intimidating activity at, say, a doctor's house could be guilty of provincial or territorial property crimes or other offences like trespassing or mischief, again depending on the circumstances.

For these reasons, while I recognize — indeed applaud — Senator White's intent, I do not believe that the proposed amendment is necessary to achieve his aim.

Honourable senators, that is the government's policy position, which I wanted to put on the record for your consideration.

However, I would also like to take a moment to contribute my perspective to the process, indeed, to the collaboration which has underpinned the parliamentary process that has unfolded with respect to Bill C-3.

Bill C-3 began as a government bill, but at this stage it is very much a product of all parties in the other place. In particular, I would like to recognize the contribution of Member of Parliament Tom Kmiec, whose Bill C-211 has largely been incorporated into this legislation. These new provisions deal with bereavement leave for parents after the death of a child, which is a personal matter for Mr. Kmiec whose infant daughter died tragically a few years ago. I'm glad we have been able to make this happen.

Senators, I too would have liked the Senate to have more time with this piece of legislation. I understand your concerns. I share them. Yet I do believe that Bill C-3 is also very much a product of the Senate because our pre-study had a very direct impact on the amendments that were carefully negotiated and adopted in the other place. That, colleagues, is one of the precise objectives of a Senate pre-study: to make sure that Senate concerns which surface early can be communicated, in this case through my office and through the good work of the sponsor to the minister and other colleagues in the government who listened carefully and attentively to our concerns and worked hard to answer and address those — and this in a minority Parliament where it was not simply a question of the government saying yes or no to us, but having to negotiate this with other members of other parties in the House. Negotiations, as I know all too well in this place, are never cost-free and don't always happen overnight.

[*Translation*]

I want to thank the chairs of the two committees, Senator Jaffer and Senator Omidvar. Thanks to your leadership in facilitating the work, the government and I got the tools we needed to better understand the Senate's concerns and to try to respond to them, in collaboration with all parties in the other place.

I also thank Senator Yussuff for everything he did on behalf of health care workers and all workers during our study of Bill C-3 and, really, for many years prior to that. He did a great job engaging with senators, listening and communicating senators' concerns. The substantial amendments that have been made to the bill are a testament to his efforts.

[*English*]

Honourable senators, one of the government's publicly stated priority objectives to begin the Forty-fourth Parliament has been to ensure Bill C-3 could receive Royal Assent before the Christmas break so that health care workers could feel more secure as we continue to weather this pandemic and that a modern, paid sick leave policy finally be put into place in federal legislation.

As we stare into another wave of COVID-19, with the Omicron variant spreading across this country, that objective has become more important than ever.

To achieve this goal, the government focused on consensus building and active listening, reaching out across the aisle in the other place and across the way into this chamber. As a result, even though we have received Bill C-3 in this chamber much too late in the calendar, the Senate's fingerprints are all over it.

I know there is disagreement around the time constraints we face. I know it. Believe me, I hear you. But, honourable senators, how often is it that a bill proposing significant social policy, as well as changes to the Criminal Code, is adopted with the support of all parties, indeed, all MPs in the other place? Not only that, but how often does such a bill come to us with changes adopted unanimously by them that are so clearly reflective of the Senate's pre-study work and ongoing interventions and communications behind the scenes with the government to transmit senators' preoccupations?

As Government Representative, I want you to know that I'm very proud to bring this bill to this place. For all of these reasons in my view, Bill C-3, as adopted by the other place and now before us, is very much worthy of our support. Ultimately, I'm sure that we all share the desire to protect health care workers as much as we can. This bill represents significant progress in this regard. Doctors and nurses themselves support the legislation as it is, and they have asked us to pass it as it is. I encourage honourable senators to take their advice.

For that reason, this government cannot support the amendment put forward by Honourable Senator White, and I would invite you to reject the amendment as well. Thank you, colleagues.

**Hon. Larry W. Campbell:** Honourable senators, I rise today to speak on the amendment to Bill C-3.

Bill C-3 really is two bills. At any other time, we would be talking about an omnibus bill where we have two different subjects thrown into the same bill. In fact, for many years under the previous government, we were always complaining about omnibus bills where we get bills with a number of different issues in it. One of them is under the Labour Code to allow benefits for workers. One is under the Criminal Code. I completely support the changes to the Labour Code.

The difficulty I have is with changes to the Criminal Code. There are already provisions under the Criminal Code for the offences listed in Bill C-3, and I fail to understand how these

changes to the Criminal Code will make it safer for health care workers. Instead of new offences, police and the Crown should be utilizing already existing legislation.

• (1220)

I ask you: Do you think that the courts would actually sentence someone to 10 years in jail for this new crime? I think not. That being said, I support Senator White's amendment, because it will at least actually protect health care workers no matter where they are.

One of my concerns is that protest is one of the hallmarks of our democracy for unions and for different groups that want to put forward their views. Any time we limit this, we lessen our freedoms. I totally condemn the actions of a minority of Canadians who try to harass and intimidate health care workers. These people are cowards, and they should be sanctioned. But COVID should not be used to lessen the rights of people.

Perhaps as important is the manner in which the bill was received. It really doesn't matter which government is in power — Liberal or Conservative. Three times a year we get bills at the last minute with no time to study them: Christmas, Easter and summer breaks. Over the 16 years I have been in this place, we kept hoping the role of the Senate would be recognized by the other place and that we would get bills in a timely manner so we could actually do our job. Christmas, Easter, summer — it just keeps on.

Is this democracy? Is this how the Government of Canada is supposed to govern? We talk about independence and how proud we are that we are not whipped — that we can do our job without a sword hanging over our head. Over the break, I hope that all senators will consider this problem. I look forward to hearing from Senator Tannas on how we can go about this.

I hope we can come back with actions to stop this undemocratic process on the part of the government. I wish all colleagues and staff a happy holiday season. Be safe. Thank you.

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

**The Hon. the Speaker pro tempore:** Do you have a question, Senator Kutcher?

**Hon. Stan Kutcher:** Yes I do. Would Senator Campbell take a question?

**Senator Campbell:** Absolutely.

**Senator Kutcher:** Thank you, Senator Campbell, for that intervention. Health care workers have been overwhelmed and overburdened during this pandemic, as well as subject to harassment in their professional and personal locations. They are often called heroes, but that is cold comfort. I think they look for action.

I want to ask if you could put yourself in the place of a health care worker doing the best you can, burning out and slogging through this pandemic. Would you feel better and more thankful if the government said that people couldn't picket your home, threaten your kids at home and come to your house and yell and scream at you?

**Senator Campbell:** Thank you for the question. Quite frankly, I don't think I could be a health care worker. I don't think I could do it.

That being said, the government has all the tools and should be telling these health care workers that we have the tools and we need to put them in place. We need to have the police and the Crown actually doing something under all of the different sections we have in the Criminal Code. I think it's bad messaging on the part of the government that they haven't been pushing to have charges laid every single time this happens — every single time. Because it's happening in public. It's not like this is being hidden. It is ongoing. From the point of view of a health care worker, I would be totally demoralized. I don't know how they do it. I really don't.

**The Hon. the Speaker pro tempore:** Senator Kutcher, do you have more questions?

**Senator Kutcher:** No, Your Honour. I just want to acknowledge Senator Campbell's concerns and his willingness to share them.

**Hon. Percy E. Downe:** Honourable senators, I want to thank Senator White for introducing this important amendment, which provides greater certainty in preventing the harassment that intends to — as the bill describes — provoke a state of fear in health care professionals and, by extension, their families. These people are working so hard and sacrificing so much on our behalf during this never-ending pandemic.

We had an example of this appalling conduct last week in Prince Edward Island when the private residence of our Chief Public Health Officer was the target of demonstrators. Dr. Heather Morrison is a P.E.I. native and Rhodes Scholar, and we are fortunate to have her professional expertise when dealing with COVID. Because of the work she has led and the efforts of many other Islanders, Prince Edward Island is the only province yet to suffer a single death due to COVID-19.

Dr. Morrison and her staff have taken advantage of our geography to test everyone entering P.E.I. — with a follow-up test four days later. To be approved for entry, you have to apply in advance for a PEI Pass showing your vaccination status. As might be expected, many of these measures have greatly annoyed the usual suspects. The anti-vaxxers are upset that no one is listening to them when in fact the reverse is true. Our medical professionals have heard them loud and clear and have rejected their advice based on sound medical and scientific judgment.

To have protestors show up at the private family home of Dr. Morrison is beyond the pale, and that is why I strongly support the amendment to Bill C-3 proposed by Senator White. It would impose a serious penalty on anyone trying this stunt again.

Senators, I want to speak briefly about the fine line between denying legislation and rushing to pass legislation. By now, even the newest of senators have experienced the desire of the government to have government bills passed quickly. Although it is understandable for them to want their bills passed, it does not remove the Senate's right and responsibility to examine these

bills and check them for mistakes, unintended impacts or the need for amendments — like Senator White's amendment that will improve this bill.

Over the years, senators have been urged, pleaded with and otherwise encouraged by members of successive governments to pass legislation as quickly as possible. Again, this is understandable. However, I believe we should take the time we need both as a matter of principle and because, as we discovered in 2007, of what can happen when we fail to do so.

The 2019 report by the Parliamentary Budget Officer about changes to disabled veterans' benefits under the New Veterans Charter serves as a good lesson on how rushing legislation can have a long-term negative impact. The Government of Canada, with the full cooperation of all the opposition parties in the House of Commons, decided to pass the New Veterans Charter legislation as quickly as possible. In that respect, they succeeded. From the time it was first spoken to in the House of Commons to the bill receiving Royal Assent, three days passed. The amount of actual debate in chamber and committee was less than five hours. Only two minutes of that five-hour debate was in the House of Commons. The balance was in the Senate.

To be clear, everyone acted with the best of intentions, but we all know what road is paved with good intentions. We did a lot of paving in the Senate leading to the passing of the New Veterans Charter. Put simply, colleagues, the Senate failed in its duty. We did not study the legislation carefully. We did not correct the mistakes in the legislation. We were rushing to do our job. Sometimes — many times — it is precisely our job not to rush.

We can't say we weren't warned. At a meeting of the Standing Senate Committee on National Finance, where the Senate sent the bill — because we were in a rush, rather than sending it to the Veterans Affairs Committee or National Defence Committee, we sent it to the Finance Committee — Sean Bruyca, a retired Canadian Forces captain and long-time veteran advocate, testified before the committee. He stated:

We all know that the government wants to be seen as honouring veterans, but that does not necessarily mean that their veterans charter is free of errors. . . . We believe disabled veterans and the CF would rather have it right than have a flawed and unjust charter right now.

• (1230)

Unfortunately, we did not heed his advice.

The 2019 report of the Parliamentary Budget Officer indicates this failure of the Senate has cost disabled veterans and their families millions of dollars in lost benefits. Think of that, senators. We tried to assist veterans; we tried to assist their families. These people were injured serving Canada, disabled and

in need of assistance, and we allowed a bill to go through that cost them millions of dollars. One of the significant changes in the New Veterans Charter was a replacement of the long-time monthly pension benefit with a lump sum. That change, as the Parliamentary Budget Officer indicated, cost veterans and their families. That is our fault. That is the Senate's fault.

The House of Commons was unanimous in passing this bill. We heard discussion today where people said, "Oh, well, if it's unanimous in the House of Commons, our hands are tied." This is another example of where the House of Commons passed it in two minutes. As I said, we don't want to question their motives. They thought they were doing something important and proper, but they missed the errors in the legislation. The Senate compounded the problem in our rush to do what we thought was the right thing. That's why the Senate needs to take its time.

Honourable senators, over the years, there are lots of examples of ministers rushing the Senate. I'll give you a minor example. In 2016, the Standing Senate Committee on Foreign Affairs and International Trade had in Minister Freeland, then Minister of International Trade, to talk about ratifying the World Trade Organization's Trade Facilitation Agreement that Canada had signed but not yet ratified. The minister stated how embarrassing it would be if Canada didn't ratify it, because it would come into force when 110 World Trade Organization, or WTO, members ratified it. When the minister appeared, 96 countries had. The minister said it was important for Canada to be seen as an effective and energetic participant in the multilateral trade community and requested, "Let's get it done."

Colleagues, it bears noting that this bill, at that point, had been in the Senate for five weeks. It took 27 weeks for it to go through the House of Commons. I might add that it enjoyed the support of all the major parties in the House. The need for energetic participation was rather late coming.

At the meeting of the Foreign Affairs Committee, questions were asked: "Why the rush?" "Why such a tight deadline?" "If Canada ratifies after the 110, we're still a member of the agreement. What's the rush?"

"No," the minister said. "We need to ratify right away because we anticipate 14 countries will ratify it in the next week."

She was questioned about this. Her answer was "absolutely." When other committee members expressed further doubt, she said, "Everyone has been acting on this." In other words, colleagues, it was crunch time, and we had to act quickly. The committee set aside its concerns in light of the minister's sense of urgency. The committee had one more meeting and reported back to the Senate on Thursday, November 24, and it was passed in the chamber two sitting days later on November 30. That's a total of six weeks in the Senate, less than a quarter of the time it spent in the House.

When did the WTO finally get the 110 ratifications? They did so on February 22, 2017, three months to the day after the minister said she was absolutely sure it would only take a week.

The purpose of this little story isn't to challenge the minister's judgment or powers of prediction. She was merely doing what all ministers do, which is the utmost to get her legislation passed. Every minister wants their legislation passed. They're convinced theirs is a good bill, perfect the way it is. Anyway, they believe we can fix the problem later after it's passed. If our newest colleagues haven't heard such arguments yet regarding regulations or adjustments promised but rarely delivered, I'm sure they will.

One example of how we did perform our duty is from December 2015 when Bill C-3, An Act for granting to Her Majesty certain sums of money for the federal public administration for the financial year ending March 31, 2016, arrived in the Senate. Once again, the House of Commons acted with impressive speed. They did the first reading, second reading, Committee of the Whole and third reading in 17 minutes. Of course, such speed is possible when you don't actually look at the bill. It was only when Bill C-3 came to the chamber that it was noted by Senator Day that the bill wasn't all there. A schedule referred to in the bill was not included. Blaming administrative errors, the House of Commons forwarded the corrected version the next day. Needless to say, there was no mention in the other place that it was the Senate that spotted and corrected this error.

Colleagues, I keep hearing about the new Senate and how it is non-partisan, has merit-based appointments and is independent. But last night, the Senate acted like the old Senate with threats and pressure not to have any discussion or review of this legislation, "Let's get it passed because it was unanimous in the House of Commons" and "Let's go home and enjoy the holidays." Senator Tannas and Senator White received the bulk of the pressure, but it was a group decision from the Canadian Senators Group to further a motion tabled in this chamber on at least two occasions, that we want at least five days of debate on every bill so we're not rushed.

Colleagues, if the House of Commons realizes no bill will be passed without five days of debate, we know what will happen. We will get the bill five days earlier because they want it passed.

In conclusion, I would like to quote once again one of the founders of the Senate, Sir John A. Macdonald, when he said:

There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House.

Colleagues, if all we do is approve, then our approval means nothing. Let us remember that as we go forward. Thank you, honourable senators.

[*Translation*]

**Hon. Diane Bellemare:** Would the honourable senator take a question?

[ Senator Downe ]

**Senator Downe:** Yes.

**Senator Bellemare:** Thank you. As I listened to you, my spontaneous reaction was that, yes, Senator White could introduce a bill when we come back after the holidays to amend the Criminal Code so we can improve this bill and make it better, more perfect. That is true, that could be done.

I understand your frustration, Senator Downe, and I think we're all frustrated. That said, here's my question: Don't you think it would be more appropriate to proceed, as Senator Tannas suggested, with a comprehensive re-examination of the relationship between the Senate and the House of Commons? That way, we could avoid taking this bill hostage to make it more perfect, as Senator White put it. In any case, Senator White clearly stated that he will vote in favour of the bill. That's the price we have to pay. The solution I would opt for is to initiate a more formal dialogue with the House of Commons about our frustrations. Don't you agree?

[*English*]

**Senator Downe:** Just as a clarification, Senator Tannas didn't indicate he wasn't voting for the amendments. Senator Tannas wants to do what the rest of us want to do, which is to improve the legislation. The short answer is: Why would we put off improving it when we can do it now?

It's not our problem that the House of Commons has adjourned. If the House of Commons had the proper respect for the Senate, they would have suspended until we dealt with the bills, even though they have adjourned. It's easy, particularly in a hybrid session, to call the House of Commons back for one hour to deal with the amendment. If they were to accept our amendment, we would have improved the bill. If they were to reject it, we would have to consider that, as we always do, with the wisdom of the elected members.

For the House of Commons to say, "Oh well, Parliament is over. We're gone. The Senate's hands are tied," is not correct at all. The Senate can amend anything we want, and in this case it is an improvement to the bill. If the House of Commons is serious about the importance of the bill, they can be recalled within an hour, as Senator Tannas said in his remarks. In a hybrid session, it's even more cost-effective.

**Senator Gold:** Will the senator take a question?

**Senator Downe:** Yes.

• (1240)

**The Hon. the Speaker pro tempore:** Senator Downe, are you asking for five more minutes to answer a question?

**Senator Downe:** Yes. I don't want to delay the procedure, but yes, if people agree.

**The Hon. the Speaker pro tempore:** Is it agreed?

**Hon. Senators:** Agreed.



**Senator Gold:** Thank you, Senator Downe. My question is an attempt to return us to the actual bill or the amendment to the bill that we're referring to.

When the Government Representative in the Senate stands before this chamber and says that it is the view of the Government of Canada that the amendment is covered by the current language in Bill C-3, being mindful of our former colleague Senator Baker's remarks of how the court takes our pronouncements in the chamber and committee seriously, would you not agree that the government position, as stated by the Government Representative, will be and should be considered, not only by courts but by senators, relating to this amendment?

**Senator Downe:** Thank you for that. The problem, of course, is that we've heard various things from various governments over the years in various bills. We've heard, Senator Gold, as I outlined in my speech, various promises and commitments about legislation that has come forward from the House of Commons about what the purpose was.

Let me talk briefly about the veterans charter. We were assured that that New Veterans Charter would improve the benefits for veterans and their families. Not only did all the opposition parties in the government support it 100%, but many of the then-veterans groups supported it. The opposition came from individual veterans, many of whom claimed and were suspicious that it was a cost-saving measure, and we found out they were right. Veterans were denied benefits — people who lost limbs in the service of Canada overseas. Millions of dollars were lost, as the Parliamentary Budget Officer documented, because we asked him. The government said it wasn't a cost saving; veterans said he checked it out, and sure enough it was.

Back to your point about the bill, what is said and what the interpretation may be is not up for discussion if Senator White's amendment goes through. It brings greater certainty to an area I'm particularly concerned about, and that is the protest at the residence of the chief health official of Prince Edward Island that happened last Saturday. Dr. Morrison, her family and her children had protesters out in front of her house. Senator White's amendment will fix that without a doubt, and that's why I'm supporting it.

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

**Hon. Denise Batters:** I have a very quick question to Senator Downe.

**Senator Downe:** Yes.

**Senator Batters:** Thank you. In light of what Senator Gold said about the remarks of the Government Representative on this particular matter having some weight, would you also agree that it's important to note, then, that today the government leader said that he referred to the pre-study and that this matter was properly considered at the pre-study of the Legal and Constitutional Affairs Committee? However, isn't it important to note, then, that the pre-study consisted of the Minister of Justice and officials for one hour and that's it? It was not an exhaustive week-long study or a full day-long study, or anything like that. Is that necessary to consider in that remark?

**Senator Downe:** Thank you, Senator Batters. There are a couple of things. First, we got a very different bill from the House of Commons than our committee studied. Senator Tannas covered that in detail, so I won't repeat it.

The second is, and I say this with the greatest respect for Senator Gold, whom I like very much personally, but he's not a member of the cabinet. If he was a member of the cabinet, his words would carry more weight than they do as Government Representative in the Senate, and it is a division of authority and responsibility that has to be considered as well.

**Hon. Pierre J. Dalfond:** Honourable senators, I will enter debate on the amendment. I understand that people are expressing concerns about the process, and it's not my intent to speak about the process. I'm going to speak to the amendment only, and I can assure honourable senators that I won't be 15 minutes.

I would like to invite all honourable senators to take out a copy of Bill C-3. If you have it at hand, handy and close by, please use it because I'm going to read from it and it's kind of boring, so if you have the text, it might be easier to follow. It's technical.

Not many amendments to the Criminal Code are being proposed. There are only two substantial ones, and they are found at section 2 of the bill. The act is amending the Criminal Code by adding or creating the first infraction offence called intimidation. It's to threaten, to bring people to fear.

The second offence created is obstruction or interference with access. This is preventing access. This is when you are picketing in front of the clinic and prevent people from walking in; it could be a clinic, a doctor's office or anything where there are some health services provided.

We should not confuse both offences. They are two distinct offences.

Let's go back to the first one, the one that Senator White proposed to amend. I will read to you the offence of intimidation.

Every person commits an offence who engages in any conduct with the intent to provoke a state of fear in . . .

— and then there is a list of people, essentially health professionals.

So the offence is to engage in any conduct with the intent to provoke fear. Senator Simons asked the following question:

And someone at their home? Because we've heard stories of health care workers being threatened online, protesters coming to houses, but also, more importantly, people posting their photographs and that kind of thing.

This is how Minister Lametti responded:

It definitely applies online, and it was specifically conceived to apply to online.

So the offence is any conduct such as the following: It could be picketing in front of your house; it could be sending you threatening letters; it could be calling you on your phone; it could be sending you emails; it could be online.

The amendment which is being proposed will make the section read as follows:

Every person commits an offence who, in any place, engages in any conduct with the intent to provoke a state of fear . . . .

So you will add an element to the offence which is being proposed. It has to be done in any place. Quite frankly, this amendment could be read as restricting the rather broad coverage which is intended by asking for a kind of material element. It should be done “in any place.” So online may no longer be considered to be covered.

I know I’m technical. I’m sorry that I’m boring when I say that, but in my previous life I spent 20 years just reading and trying to find out the meaning of words. I’m telling you we should carefully consider adding these words because I think they will restrict the intended offence that Parliament wants to create here.

I’m not speaking about the process. I am speaking about the amendment, period. I wish this amendment would have been debated at the Legal and Constitutional Affairs Committee. We could have debated between ourselves, but it’s never too late. It’s coming now, so I want to engage in debate just to say that, and to say I do not oppose the intent of getting better protection for health care workers, but it doesn’t fit there. If it’s included there, it will end up having the risk of defence lawyers arguing before courts that one element of the *actus reus*, the material element of the offence, must include “in any place.”

• (1250)

That’s going to, I’m afraid, make things less workable than is being contemplated. Therefore, I will vote against the proposed amendment. Thank you.

**Senator Lankin:** Honourable senators, I will be brief. I agree with the proposition just put forward by Senator Dalphond. I think that the rationale that Senator White put forward to support this amendment was that, in its description, it applies to the second provision in the Criminal Code amendments in this bill — that being the one not barring access to legal health services. In fact, the act of intimidation, as Senator Dalphond just pointed out, is another provision or clause within the bill. That is the one that currently gives protection to people if it is at their home. If they happen to be providing medical health services out of a home office, then the other provision applies as well.

Not only is it perhaps redundant to what protections or provisions are already in the Criminal Code, it doesn’t apply to the same provision that Senator White describes in the fact

situation. I think it would suffer from the same complaint and concern that we have about rushing through things in terms of the process that we undertake.

Much of this discussion today has been letting off a little bit of steam around our frustrations with the government’s lack of respect for the necessary process for the job to be done well. I think that’s all the Senate is asking. Everybody wants to get these benefits to Canadians as soon as possible, and everyone recognizes the urgency. Similar arguments could be made in other circumstances that senators have pointed out where this has happened before.

However, I think it would be wrong, from what many people have argued already, to hold this bill up as the particular case example where we’re going to draw the line in the sand. I look forward to participating with Senator Tannas and others in the chamber to find a strategic and tactical way forward in the future in discussing this matter with the government, but I will vote against the amendment that has been put forward, although I understand the point that is being made. Thank you very much.

**Hon. Brent Cotter:** Honourable senators, I’ll try to be brief and, in a sense, follow up on Senator Dalphond’s observations.

In some of the discussion in the Legal Committee, there were some who suggested that this legislation is somewhat performative and that it wasn’t absolutely critical. I support the legislation as much as anything and the message that it conveys. I accept the view that Senator White’s amendment is to try to strengthen the legislation, but I don’t think, to be fair, it would make much difference, even if Senator Dalphond were incorrect. I think he’s right about the concerns of accidentally narrowing the scope of an offence.

My point is slightly different. If you look at the rest of the Criminal Code — and I’m going to name four different provisions: uttering threats, mischief, criminal harassment and intimidation. In my view, each one of these applies exactly and directly to the concern that Senator White would like to see addressed in this provision. My sense of what will be the most critical is not so much a slight tweaking of this provision, but, in circumstances that warrant it, that the police and prosecutors move forward proactively to address the circumstances that, among others, Senator Downe spoke so forcefully about.

I think the best thing to do is to vote against the amendment, confident that the Criminal Code already does the job we need and that this provision will help a little. That’s my view. Thank you.

**Hon. Hassan Yussuff:** Honourable senators, I would like to speak to the amendment proposed by my honourable colleague Senator White. I would like to thank him for his friendship and equally thank him for sharing his perspective with me.

I understand his desire to ensure that the bill captures all possibilities to protect health care workers from intimidation. I don’t think there is a single senator in this chamber who doesn’t agree with him, but I believe that this bill, along with other sections in the Criminal Code, cover my colleague’s concern regarding intimidation offences. Therefore this amendment is unnecessary, and I won’t support it.

The new intimidation offence created by Bill C-3 is meant to address circumstances where a health care worker or a person seeking health care services is subjected to any intimidating conduct. This could include threats or other forms of violence that are intended to provoke fear; interference with the duties of a health care worker; or, impeding a person from receiving health care services. While the purpose of the act of intimidation made to the health care worker must provoke fear and render them unable to perform their duties, the act of intimidation does not need to be done while the person is in the performance of their duties.

The act that is intended to provoke fear can be done anywhere, at any time, either in person or online or by any means. Consequently, it does not matter legally where the health care professional is when they are intimidated. The proposed amendment to include “in any place” with respect to the new intimidation offence is therefore redundant. This is why I think we shouldn’t support the amendment. Thank you.

[Translation]

**The Hon. the Speaker:** Senator Dupuis, do you want to ask a question or to speak?

**Hon. Renée Dupuis:** I will speak, Mr. Speaker.

The amendment put forward by Senator White poses the same problem that we see with almost every amendment that is brought forward when we do not have the chance to examine the impact. People complain about the bill coming to us at the last minute and not having time to study it properly. This amendment seeks to respond in part to the concern raised by many members of the Standing Senate Committee on Legal and Constitutional Affairs to the effect that some provisions of the Criminal Code are not being applied to incidents of violence against health care workers or people who are trying to access health care facilities.

I think the problem created by the non-enforcement or poor or inadequate enforcement of Criminal Code provisions to date in the context of COVID-19 is a different problem that cannot be solved. If Senator White’s amendment is adopted, there is no guarantee it will be enforced. I think this is a useless argument. The amendment introduces an element that makes a more restrictive interpretation by the courts more likely and, even if it were adopted, it would not address the lack of enforcement of the legislation as it now stands or of the amended version if this bill passes.

[English]

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

**The Hon. the Speaker:** If you are opposed to the motion, please say “no.”

**Some Hon. Senators:** No.

**The Hon. the Speaker:** I hear a “no.” Those in favour of the motion who are in the Senate Chamber will please say “yea.”

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Those opposed to the motion who are in the Senate Chamber will please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** I see two senators rising. Do we have agreement on a bell? The vote will take place at two o’clock. Call in the senators.

• (1400)

Motion in amendment of the Honourable Senator White negated on the following division:

YEAS  
THE HONOURABLE SENATORS

Ataullahjan	Martin
Batters	Mockler
Black	Oh
Boisvenu	Patterson
Campbell	Poirier
Carignan	Quinn
Downe	Smith
Greene	Tannas
Griffin	Verner
Housakos	Wallin
Kutcher	Wells
MacDonald	White—24

NAYS  
THE HONOURABLE SENATORS

Anderson	Gerba
Arnot	Gignac
Audette	Gold
Bellemare	Harder
Boehm	Hartling
Boniface	Jaffer
Bovey	Klyne
Boyer	LaBoucane-Benson
Brazeau	Lankin
Busson	Loffreda
Clement	Marwah
Cordy	McPhedran
Cormier	Mégie
Cotter	Mercer
Coyle	Miville-Dechêne
Dalphond	Omidvar

Dasko	Pate
Deacon ( <i>Nova Scotia</i> )	Peticleerc
Deacon ( <i>Ontario</i> )	Ringuette
Dean	Saint-Germain
Duncan	Wetston
Dupuis	Woo
Francis	Yussuff—47
Gagné	

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

• (1410)

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Yussuff, seconded by the Honourable Senator Dasko, for the third reading of Bill C-3, An Act to amend the Criminal Code and the Canada Labour Code.

**Hon. Stan Kutcher:** Honourable senators, I rise to speak to Bill C-3, An Act to amend the Criminal Code and the Canada Labour Code. I will speak specifically to the Labour Code section of this important, time-sensitive legislation.

My initial intention as we studied Bill C-3 in the Standing Senate Committee on Social Affairs, Science and Technology was to propose an amendment to the bill. However, given the very late arrival of this legislation with some House-initiated amendments and the vital importance of access to paid sick leave for federally regulated workers as this Omicron phase of the COVID pandemic unfolds, I will, with many reservations, accept the bill as it is presented to us.

I am going to take this time to address my key areas of concern as related to clause 7, specifically subsection 239(1.6) that addresses requirements for medical certificates. I understand this is a “may” and not a “must,” but in my opinion, and as shared by many health care professionals, there is no demonstrated value in promoting the practice of asking employees for a medical certificate if they have reported being ill. Indeed, there is an increased health risk to the public and to health care providers if such a procedure is followed.

It also runs contrary to existing public health advice that is essential for us to follow during this pandemic, especially with this rapidly transmissible Omicron variant: If you are sick, stay home. What we don’t need are workers who are sick travelling to get a medical certificate and infecting others en route. We don’t need workers who are sick going into health care facilities because they need a medical certificate, infecting other patients, and we don’t need workers who are sick going to work because they would rather go to work sick than get a medical certificate.

To underscore that last point, a 2018 Ipsos poll found that 82% of employed Canadians would rather go to work sick than go get a medical note to certify that they were sick. And when they do, data shows us that they are less productive, incur more injuries and are more likely to infect others. This has the makings of a perfect storm.

If that is not enough, my doctor’s and dentist’s offices both have a sign on the door asking people who are unwell not to enter. My guess is that a similar sign is on most health providers’ doors across Canada. Try to get through by telephone. Good luck.

That’s to say nothing of the hundreds of thousands of people in Canada who do not even have a family doctor. Over 80,000 people in my province of Nova Scotia do not have a family doctor.

On top of that, walk-in clinics are not an easy answer. Someone goes to a walk-in clinic, and what do they see? You guessed it: a sign on the door saying, “Do not enter if you have any of the following symptoms”; exactly what they need the note to say that they have.

In addition, the burden of this note-seeking falls most heavily on those who can least afford it. Some have to travel a long way just to get a note. Some have young children at home. Some cannot afford to pay the extra fees that are often charged because a sick-note visit may not be covered by provincial or territorial health care insurance.

Speaking about health care, what we don’t want are people being forced to access health care resources that are already stretched to the limit just to get a sick note.

For the Government of Canada — which has demonstrated a willingness to improve supports for employees during this pandemic, and that is really good — to legislate such an anachronistic and problematic process just makes no sense to me.

To add an additional layer of complexity, the bill allows for a 15-day period after an employee’s return when an employer can request a sick note. This also makes no sense. Doctors cannot ethically issue a medical certificate if they have not seen a patient. An employee who did not see their doctor when they were sick cannot ask for a note 10 or 15 days after they have returned to work.

Finally, the bill as amended in the other place sets a threshold of five days, below which a note is not needed. Why five days; why not four and a half days or six days? This is a number pulled out of a hat. And for what purpose; what does this achieve? Sadly, I do not think that this modification was well thought out either.

As a physician, I am well aware of the many negative issues related to the issuance of medical certificates. None of the many colleagues that I have spoken with on this issue support it, and nor do I.

In conclusion, I have asked our Senate colleagues who are physicians to allow me to share their thoughts on this issue, and they have kindly given me permission to do so in this speech.

Senator and Dr. Mégie:

Unfortunately [this] does not take into account physicians' ethical obligations, rendering the "15 days" provision impracticable.

In practice, a health care practitioner should document a patient's situation in the patient's chart and diligently base [their] medical opinion on the medical evaluation. Thus, a physician who evaluates a patient/employee on the 9th or 14th day following the patient's return to work might not be able to assess the person's situation the same way [they] would have on the first days of this person's illness. The physician might therefore refrain from giving [their] patient a note required by an employer, seeing as a retroactive medical certificate could warrant disciplinary sanctions against the physician.

Senator and Dr. Moodie:

We know that employees are facing a significant struggle to confirm appointments with their physicians, at hospitals and clinics and even with telehealth providers to receive medical certificates, a barrier that is felt even more disproportionately by underserved and marginalized communities. . . . Physicians have already indicated how much of an administrative burden it is placing on them. . . . The data is robust on this. Medical certificates do not help physicians provide better care. Therefore, we need to move away from their requirement in workplaces for short-term sick leave to better support our health care sector and working Canadians.

Senator and Dr. Ravalia:

As a practicing physician I recall the huge burden that the requisite for sick note placed on me and my colleagues. At a time when thousands of Canadians lack access to primary care, many Canadians would face an inordinate challenge to obtain such a note. Furthermore, in many jurisdictions this service is considered non-insured. This places an additional financial stressor.

Honourable senators, providing paid sick leave for all Canadians is an important public health measure. However, creating built-in barriers to what is useful is not helpful and will likely lead to unnecessary burdens.

• (1420)

I will support this bill for the reasons that I have previously indicated, but I will continue to voice my concerns on redundant human resource practices that could be addressed through other means. And I will continue to ask the federal government not to put additional burden on our overstretched health systems or on those employees who are the most vulnerable to begin with.

Thank you, *wela'liog*.

**Hon. Frances Lankin:** Honourable senators, let me begin by thanking Senator Yussuff for the fine work he did in sponsoring this bill, shepherding it through, answering questions and

offering transparency and communications. It was terrific. Congratulations to him on his first speech delivered this afternoon in this august chamber.

I would like to thank the members of Social Affairs, a committee on which I am pleased to serve. For the short time we had, I think the committee did a very good job examining the proposed measures in the bill with respect to the Labour Code. The Criminal Code amendments were looked at more closely by the Legal Committee, although we did ask questions around the constitutionality and Charter compliance of those provisions.

With respect to my contribution on this third reading debate, there are three things I want to cover. I support the bill, and I will speak briefly to why. I think the bill is good, but not great, and I will speak briefly to why and what further amendments from which it could have benefited. I will also speak to why I am now not going to move an amendment and will support the bill as presented to us by the House of Commons.

First of all, in terms of support for the bill, you have heard from other senators already about the importance of this. Even when we were talking about the process of this bill getting to us for consideration, people were talking about the importance of this bill, the impact it will have on the lives of workers, particularly those in precarious jobs, low-wage employment, many of them in essential sectors as we have deemed them to be through the process of this pandemic.

This bill is urgent in its timing. With the kind of spread we now see with the Omicron variant, had the speech been even two weeks ago it may not have included that word. It's phenomenal how quickly things move. But with what we know now, the speed at which that variant of the virus spreads is incredibly disturbing and frightening. Now, even more so than at the beginning of the pandemic, it is necessary to have the right protection measures in place for workers and their health, and the right prudence of measures in place to protect the broader public health and community. So it's important, urgent and it is a matter of common sense and fairness and equity that we move on this.

I said that I thought the bill was good and not great, and I continue to think that. We have heard from senators who serve on the Legal Affairs Committee and had comments with respect to the Criminal Code provisions: there is doubt whether those provisions were even needed, but that the minister, in his responses, had an important message to send. It was a message of solidarity and support from Canadians to health care workers and to patients who are attempting to access legal health services. They will be protected from harassment and even physical altercations, as we have seen on some of the protest lines set up outside hospitals.

That could have warranted more discussion, but, from my reading of the questions and the answers and talking to other colleagues in the Senate, that's not at all fatal to this bill. It is an important message that is being sent, as is the opportunity to use this to educate the public and employers in federal sectors about the provisions that are being added here, as well as their access.

I'm more concerned about the parts of the bill that we examined at the Social Affairs Committee. Senator Kutcher has just done an admirable job of explaining concerns that I share

with him and others around the requirement for sick certificates. Let's call a spade a spade: What really underpins the policy decision that has been taken is, I think, a biased opinion that workers are prone to abusing sick time. Why else is there a requirement for this certificate? As we and MPs pushed on that, there were changes made in the House of Commons so that it now says only if you are off for over five days. Well, if you are off for over five days you are probably more likely sick than if it was a single day of absence. You just don't know in this circumstance. It's nonsensical, and it doesn't help promote the stated policy goals of this bill.

The area I was working on in amendment was the method of accrual of sick days for workers under this provision of the act. Many of us felt that these days should be available day one. Again, to think they shouldn't is only to buy into that which evidence has refuted: the old belief that workers are prone to abusing sick time. That amendment would have gone forward at day one. But after discussions with the government and members of our chamber, we decided the amendment would have accrual kick in at day 30 so there would be a short probationary or waiting period.

The policy rationale isn't great for 30 days versus day 1, except there is some measure of people having contributed by earning the time. I'm not proceeding with that amendment because, as you know, the accrual provision was amended in the House of Commons, and it goes some way to improving it. But again, the policy rationale of what the bill is intended for, and the final amendment that the House of Commons agreed upon, doesn't match up as ideally as the amendment we would have considered here in the Senate.

Why wouldn't I continue to proceed with this? At this point in time, and others have spoken to it, it's not just that a unanimous agreement was reached in the House of Commons with respect to this. It's a unanimous agreement in a time of a minority Parliament where there are negotiations and many moving parts on the table, not just this bill. That is not the primary concern to us in the Senate, other than our duty to respect the accountable chamber — the House of Commons — the duly elected citizens who are looking at this parliamentary session in bigger terms than one bill at a time. With that, I feel my responsibility as a senator is, where I see a violation of the Charter or a new negative impact on regional or minority populations, that I have to give those things consideration. Just because my policy opinion is different from the government's and I would go further is not sufficient reason for me to vote against the bill, which has had consideration from the other place and unanimous agreement after negotiations in a minority Parliament.

Thank you very much.

**Hon. Dennis Glen Patterson:** Honourable senators, I rise today to speak to Bill C-3, An Act to amend the Criminal Code and the Canada Labour Code.

I'd like to start by saying that as critic I appreciated the opportunity to establish what I believe was a very good working relationship with the bill's sponsor and one of our newest colleagues Senator Yussuff, during the very compressed study of this bill.

I want to make it clear that I support protecting front-line workers from abuse and harassment, as well as the right to paid sick leave. I fully acknowledge how significant the Labour Code portions of this bill would be for federally regulated workers. The federal government is also planning to engage with provinces and territories to use this bill as a floor for improving workers' sick benefits throughout Canada.

• (1430)

In the context of what has been happening in the COVID pandemic, this is an important initiative.

However, honourable senators, I will also begin by expressing my dismay over the overall handling of this bill, and I'm obviously not alone in this criticism.

The Standing Senate Committee on Social Affairs, Science and Technology held an organizational meeting on Tuesday, December 7, 2021. At that meeting, not only did we elect the chair and deputy chair and pass the regular motions, but members of the committee were table-dropped a proposed witness list for a pre-study of Bill C-3 and told that we would be limited to only four panels, one of which would include the minister and officials.

I then went straight into a steering meeting where we needed to immediately whittle down the list to fit within the constrained time frame. Invitations to appear went out that same day, and we heard our first two panels on Wednesday, December 8. We had several invitations declined, and it's unclear whether this was because they had no desire to participate or if it was a matter of availability and capacity to deliver a presentation on such a tight timeline.

However, this led to an imbalance in the witness list with employers left under-represented. In my view, this was a glaring omission since it is employers who will be stuck paying for the measures proposed in this bill, not the government. If some employers cannot pay for the measures, it is their businesses that will be at risk and it is their workers who would lose their jobs.

The minister appeared at our next meeting at 6:30 p.m. on Monday, December 13, and was followed by our last three witnesses. We had a draft report in our hands by our 9 a.m. steering meeting on the next day, Tuesday, December 14. We then held a meeting during the Senate sitting that day in order to very hastily consider the report with the whole committee, not line by line, but paragraph by paragraph. The report was tabled in this chamber on Wednesday, December 15.

May I also observe that the so-called — and I would say misnamed — pre-study on the health care workers harassment aspect of this bill was also hastily dealt with by the Standing Senate Committee on Legal and Constitutional Affairs, who only had one witness, the Minister of Justice, and officials, and for only one hour.

If that sounds like a lot of information and processes in a short amount of time, that's because it was. Everything had to be rushed, including our committee meetings. It was a whirlwind. It is not the way that legislation of this importance to so many businesses and workers should be considered.

Meanwhile, in the other place, the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities heard from the minister on Tuesday, December 14, and went into clause-by-clause consideration later that day. They reported the bill back with two amendments on the same day our committee tabled our report. Unanimous consent was then received in the House of Commons to ship the bill to our chamber, as amended.

That means, colleagues, that our Standing Senate Committee on Social Affairs, Science and Technology pre-study report had no bearing on the proceedings in the other place whatsoever. It means that we have had no influence on shaping this legislation or addressing any potential gaps.

With the House of Commons already having risen, and the Senate about to rise for the winter break, we must now consider whether we are ready to take a principled stand of calling back the other place if necessary in order to see any amendments through, or if we will, once again, yield to the will of the elected House with minimal debate.

I fully associate myself with the remarks of Senator Tannas in second reading debate, who expressed this lamentable disregard for the Senate and its long tradition of sober second thought very well as did Senator Downe in speaking to Senator White's amendment, and others.

I fear that we have evolved from the chamber of second thought into a chamber of the rubber stamp.

I was named critic for the official opposition last Thursday. My office immediately requested a critic's briefing, the customary critic's briefing, prior to the minister's appearance the following Monday. We were told on Friday by the minister's office that it was not possible. We were told that officials were so busy preparing for two committee meetings that they were unable to accommodate the request, so we had to agree to receive written responses in lieu of the briefing. Those responses were only received after the minister's appearance.

Honourable senators, I recognize that many of you may not have acted in the capacity of a critic on a bill, with some only ever having served as a sponsor. In my view, the critic's role is extremely important. A critic must ask the hard questions. If a critic does his or her job well, that is where sober second thought can have real meaning. If a critic cannot do his or her job, sober second thought merely becomes a slogan.

Minister O'Regan, himself, failed to differentiate during our committee meeting the difference between general technical briefings for parliamentarians and a critic's briefing.

Allow me to explain that a technical briefing is not a critic's briefing. A critic's briefing includes a technical component, but it is an opportunity to directly flag concerns with the minister's office and officials. It is a mutually beneficial way of avoiding delays by addressing concerns that can be easily assuaged with supplementary information and ensuring that committee studies focus on more significant concerns, such as those raised by stakeholders or those that reflect ideological differences. It is also often the first point of contact between the critic and minister, and senior officials, on a particular piece of legislation and helps to establish the lines of communication necessary for the smooth passage of a bill.

In this case, I was finally offered a briefing the day after the minister's appearance and we asked that it be scheduled for yesterday so that I could understand the reasoning behind the decision to accept some amendments and not others. I was also able to ask other questions that had arisen for me after receiving written responses from the minister's office.

As I say, I did finally receive my briefing yesterday as a critic. I was able to ask for a letter from the minister to be sent to Senator Gold outlining the last-minute amendments pertaining to the method of accrual, the addition of bereavement leave and to also include important clarifications to questions that arose during our brief study of this bill. The letter was circulated by Senator Gold by email last night. Frankly, I was hoping that Senator Gold would have tabled it for the Senate record. I did have my office recirculate it as well in case anyone did not see Senator Gold's email sent at the end of the workday yesterday.

I have spent a lot of time on the process of getting this bill to this stage because we need to face the fact that too often we are told that we need to rush through consideration of "priority" bills. But if we are to believe this bill is a priority, I ask: Why did the government only introduce it now? Chandra Pasma, a senior research officer at the Canadian Union of Public Employees told our committee that:

... it's disappointing that this bill wasn't brought forward in April 2020. That would have been a better timeline, but since it wasn't, now is the best time. We need them to be implemented urgently.

• (1440)

Ministers might assert that the matter needed to be carefully studied and that various implications needed to be evaluated first. However, there are two facts that are incontrovertible. First, in the second session of the last Parliament, during the current pandemic, the government prioritized 36 of its other bills that it decided were of higher importance than the bill we have before us today. Second, the government then called a federal election in the midst of a pandemic and kept Parliament idle until last month. That election cost Canadians over \$600 million.

I do think we need to consider the serious challenges that this \$600 million might have been able to address had it not been wasted on a needless election.

Meanwhile, workers have not been fully supported. Deena Ladd, Executive Director of the Workers Action Centre told our committee that:

I do think it's important that we move fast on paid sick days. Workers are in desperate need of them, and we shouldn't have any workers feeling like they should be going to work while they're sick, which is what is happening right now.

And yet, even though we are being pushed to move quickly and, in my view, recklessly, through the legislative process, workers will not enjoy the comfort of 10 paid sick days for almost a year. The government has made clear that it arrived at the number 10 due to isolation requirements related to COVID, but the bill employs an accrual method and, as amended, would only enable an employee to earn 3 paid sick days after the first 30 consecutive days of employment. They would then begin to accrue an additional 7 sick days at a rate of one per additional 30 days of employment, totalling a maximum of 10 days.

This is not a retroactive entitlement and only begins to accrue once the bill comes into force at a date to be set by Governor-in-Council. How long will it take to come into force? According to written responses received from the minister's office and tabled as an exhibit before the Committee:

The proposed new entitlement of ten days of medical leave with pay constitutes a significant change to the Canada Labour Code. It is proposed that the coming into force of these amendments would occur on a day to be fixed by the Governor in Council to allow time for consultations with stakeholders, training inspectors, education and awareness-raising activities for employers and employees, and the development of regulations if required.

So I suppose the answer to when the bill will come into force is, "Your guess is as good as mine." If regulations are required — and I think they will be — that could amount to months with the gazetting process, though I recognize that the minister, in his letter to this chamber, referenced that his department will be "maximizing speed while ensuring that we get this right for employers and employees."

Even if we were optimistic and said two months, we would be looking at next October before employees would have access to 10 whole days of paid sick leave under the proposed regime.

The majority of witnesses who appeared on this bill represented labour unions and worker advocacy organizations. All of those witnesses called for a bank, or bulk entitlement, with workers receiving the full 10 days after a set amount of time. Some said two weeks, others one month. A representative of employers told us the standard was three months to be entitled to benefits.

According to written responses from the minister:

Providing all ten days of medical leave with pay 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, and thus limiting costs on employers in high-turnover industries.

I can appreciate that 10 days up front may be burdensome to some employers, and that is why I am pleased that a reasonable compromise was accepted by unanimous consent yesterday in the other place, giving access to 3 days up front after 30 days of continuous employment. This can be combined with other personal leave days already available through the Canada Labour Code and at least provide six days of paid sick leave shortly after this bill comes into force.

I am grateful to have received important clarifications from the minister in his letter yesterday. The first being assurances that this bill establishes a "floor" — that is, a minimum standard of entitlement — and does not create an additional entitlement for any workers who have access to equal or greater entitlements through their employer or negotiated collective agreements.

When Derrick Hynes, President and CEO of Federally Regulated Employers — Transportation and Communications, or FETCO, testified before our committee, he warned of an issue:

... which we believe is a serious flaw in the language of the bill. We believe it can be interpreted as leave that can be stacked on top of other leaves, which unfortunately will result in workplace conflict that is completely unavoidable.

I am glad that his concerns and their concerns have been taken seriously and addressed.

I also asked if this leave would be available for mental health breaks and for those undergoing treatments, including addictions treatment. The answer I received at committee was, yes, it can apply to mental health breaks, but on the question of it covering time lost due to addictions treatment, we were told by Ms. Hassan of the department that she is "not in a position at this point to answer that excellent question."

That is why we appreciated receiving the response by letter from the minister to Senator Gold, copied to Senator Omidvar, chair of the Social Affairs Committee, and myself as critic, confirming that:

Employees would be entitled to take medical leave with pay due to illness or injury, organ or tissue donation, or attending a medical appointment during working hours. This could include time-off for mental health reasons or addictions treatment.

I had also asked for clarity during the committee pre-study regarding whether or not this would apply to part-time and short-term employees and those placed in federal departments and Crown corporations by staffing agencies as, I would note, they're currently not entitled to the same benefits as full-time, term or indeterminate employees. The answer was not as promising. We were advised by Ms. Sandra Hassan, Deputy Minister of Labour, that it would, indeed, apply to part-time and short-term employees. She went on to say:



In regard to the second part of your question, the HR agencies, it will be important to look at the status of the employee. This legislation is applicable to employees under the federally regulated regime, and a person hired through an HR agency could potentially be covered under provincial law.

Therefore, it will be a question of looking at each case to see whether the person is under federal regulation or provincial —

• (1450)

In other words, these folks placed by staffing agencies may be left out in the cold despite passage of this bill.

There is, colleagues, an important issue that we need to discuss when debating this bill.

Several witnesses who appeared before the Senate committee noted that they were not consulted on this bill. Quite frankly, instead of engaging in consultations over the summer, the government plunged headlong into an election and then, without consultations, introduced this bill just before Christmas in its usual panicked fashion.

The absence of consultations will clearly have an impact on small- and medium-sized enterprises, or SMEs. It was surprising — and, I'll admit, alarming — to learn from the minister's letter that, "Small business owners . . . represent about 96% of employers in the federally regulated private sector, and specific industries."

Jasmin Guénette, Vice-President of National Affairs at the Canadian Federation of Independent Business, testified before the Senate Social Affairs Committee, warning that:

If Bill C-3 is adopted, many businesses could be forced to cut down on staffing and benefits to absorb the new costs, if they can even survive the pandemic.

He was explicit in his testimony that small- and medium-sized enterprises are hurting:

Small business owner optimism is almost at a record low. Inflation, supply chain disruption and shortages of labour are hitting small business really hard, not to mention COVID-19 and all the restrictions imposed on businesses as a result.

He added:

The last thing I will mention is the current shortage-of-labour crisis is extremely difficult for small business. They are struggling to find and keep employees. Any legislation that will make it harder and more costly for business owners to manage their payroll will be extremely damaging.

We cannot ignore that this legislation will have significant impacts on SMEs in the federally regulated sector. Nor can we ignore the fact that the minister has been quite clear that this bill and its provisions will be used as a bar when:

. . . the Government of Canada [convenes] provinces and territories in early 2022 to discuss a plan to legislate paid sick leave across all provincial and territorial jurisdictions in the country.

We need to listen to SMEs and their representatives, like Mr. Guénette, who advised that:

If Bill C-3 is adopted, government must find ways to cut costs elsewhere for small business owners, such as freezing the increase in CPP. Government could also lower EI contributions paid by employers and ensure COVID support programs are available to more businesses.

In other words, prior to entering into discussions with provinces and territories, and as it moves forward, the government must do what it has not done up to this point. It must develop a coordinated strategy, look at the costs for business and consider potential trade-offs. To do this effectively, the government must actively consult with the impacted stakeholders.

If the minister had conducted consultations prior to introducing this bill, some of the concerns we have frantically sought assurances on would have been addressed up front and we, alongside workers and employers, would not have had to wait with bated breath for these important answers, which arrived at the eleventh hour.

It should also be noted that, while we heard from several national organizations representing workers, these organizations do not represent federally regulated workers as well as one regional organization does. I wish that, in the interest of balance, we could have heard from more national and regional business associations that could have enriched our body of evidence.

Honourable senators, I want to applaud the fact that the provisions of Bill C-211— MP Tom Kmiec's private member's bill — have been incorporated in this bill. The extension of bereavement leave to eight weeks is extremely important for those who have had to live through the terrible experience of the death of a child.

What is unfortunate is that these provisions have only been incorporated through the usual last-minute scramble. Consultations with members of Parliament, as well as a review of issues important to parliamentarians, might have contributed to earlier legislative coordination. After all, Mr. Kmiec has been working on the issue of bereavement leave since at least 2018.

In addition to better reflecting ideas from elected MPs, consultation helps to build legislative goodwill. Certainly, I am grateful that these provisions have been incorporated. I only wish the process had begun much sooner, rather than at the last minute and under the extreme pressure of passing this legislation.

Honourable senators, we must also remember that there are two parts to this bill: one that covers paid sick leave days and another that is meant to protect front-line workers.

I believe that all senators in this chamber would agree that health care workers should be protected. They're Canadian heroes and they have got us all, collectively, through this pandemic. We need to acknowledge that.

As a lawyer, though, I have to question the need for these provisions. The Criminal Code already has provisions covering harassment and assault, and police and prosecutors are already empowered to intervene in unlawful or non-peaceful protests that would otherwise intimidate or impede the access of those looking to enter a workplace, including a hospital.

Minister O'Regan admitted to the Senate Social Affairs Committee that:

When I first introduced this with Minister Lametti, there had been those who said to me, "Well, you know, a lot of these powers already exist and this is just politics." Well, to the particulars of the point, the fines and the sentencing will demonstrably increase. Secondly, yeah, you know what, politics isn't always a bad thing.

I would contrast that statement with the report tabled by the Senate Legal and Constitutional Affairs Committee, which states:

While the committee appreciates the importance of protecting health professionals and access to health services, committee members raised several questions about the need to introduce the new offences proposed by Bill C-3, given that the Criminal Code already contains the offences of intimidation (section 423) and mischief (section 430). These offences are available for police to use in response to situations where people are being intimidated, obstructed, or impeded from accessing or providing health services. . . . The committee has previously raised concerns about how the Code has been amended on a piecemeal basis for many years and has become cumbersome and very complex as a result.

So, colleagues, we find ourselves being pushed to pass a piece of legislation that we couldn't study thoroughly. We were under such tight time constraints that we could not hear from all those affected. I thank Senator White for valiantly trying to do his job to improve the legislation, but the fact is that any attempts by this chamber to improve the bill were stymied before it even reached our chamber. We tabled a pre-study report at the same time as an amended bill was being reported back to the other place, and with Parliament set to rise for six weeks, the likelihood of getting any amendments in at this stage would have been slim to none.

We must protect our front-line workers and we must support workers. I would have liked to see the government simply give existing provisions in the Criminal Code more teeth, with both higher and certain penalties. I would have liked to see more time to consult with SMEs, who will be disproportionately affected within the federally regulated sector, and even more so once similar provisions are instituted at the provincial and territorial levels.

[ Senator Patterson ]

Despite these frustrations, I cannot stand in the way of efforts to signal somewhat better protection for hard-pressed front-line workers. I also support ensuring that we offer adequate paid sick days to employees.

I will support this bill, but I do so noting that we must soon draw a line in the sand, as has been discussed in this debate. We cannot continue to rubber-stamp flawed and rushed legislation. This legislation has long-term consequences, and rubber-stamping poorly considered initiatives will be detrimental to Canada and a betrayal of this chamber's mandate.

Thank you, honourable senators. *Qujannamiik. Taima.*

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Some Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

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

## BUSINESS OF THE SENATE

### EXPRESSIONS OF GOOD WISHES FOR THE SEASON

**The Hon. the Speaker:** Honourable senators, before proceeding, I will call upon the leaders to make a few short remarks before we take our winter break.

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senators, before I turn to my text, a few words of apology are in order — first to Senator Woo, because I will be using a poem, or at least the structure of a poem, that he elegantly used on a previous occasion. I feel duty bound to offer my apologies as well to the Yeatses and Shakespeares of the world for what I'm about to do to the English language — and to Molière as well, as you'll see in a moment.

• (1500)

The other thing that I would invite colleagues to do is indulge in a bit of poetic licence. I thought I would be giving this at night, perhaps even last night. So although I have made a few changes and without further apologies, my remarks to you all and those watching.

'Twas the night before rising, when all through the Senate,  
The bills kept a-comin' because the House didn't get it.  
They'd come to agreement and left to go home,  
Not thinking of us down the street all alone.  
We messaged and called and texted between us,  
Sorting out how to law-make without all the fuss.  
The studies got tabled and speeches were heard,  
We did what was needed to push them to third.  
We finally saw that the end was in sight,  
The clock said we had one more hour to midnight.  
While waiting for Rideau to give us its "yea,"

I know there was one more thing I'd yet to say. Since COVID has kept many locked in a room, Wearing masks and distancing and speaking through Zoom, I owe you all a warm virtual kiss for getting it done, leaving nothing amiss.

[*Translation*]

There are one or two who deserve their own mentions, They know this place well, the rules and conventions. They help or they hinder, depending on the day, It's part of my job. Do I like it? I'll say!

[*English*]

There's Gagné and Benson and Plett and Pau Woo, And Cordy and Tannas and Housakos now too. To some I say thank you, and I mean this sincerely, On days like this, we can see things most clearly. We're here for our country; we want what is best, Our goals are the same; it's not a contest. Our families are waiting, so let's get on our way, Happy Holidays to all, and to all a very good day.

[*Translation*]

**Hon. Leo Housakos (Acting Leader of the Opposition):** On behalf of the official opposition, I would like to thank all our colleagues for their commitment, their cooperation, and their love for our great country, Canada. Thank you to all the leaders and the leadership of all Senate groups. In a very short period of time, just three weeks, we have accomplished a great deal as we kicked off this Forty-fourth Parliament. We have referred several public bills to committee for study, and we have referred several more to the House of Commons in the spirit of cooperation. I hope we'll all keep up the enthusiasm and the same cooperative spirit as we continue our work in the new year.

[*English*]

I imagine, colleagues, in large part the last few weeks of cooperation is probably due to the spirit of Christmas. Of course, in the spirit of Christmas, we celebrate the birth of Jesus Christ, but also we celebrate giving and sharing with our loved ones and friends. We also spend the time just before Christmas reflecting on all the joys and wonderful things we are blessed with, but also reflecting on all the challenges that this country faces. Just last year, we were wrapping up for Christmas with a note of cautious optimism for the new year. We have taken some steps forward and some backward, but we will rise again with more hope and optimism for the coming new year.

We should also take time to reflect on the 30,000 Canadians who have perished during this existential crisis that our country is facing. We should take the time to reflect on the three colleagues we lost in this institution over the last 12 months, our dear friends and colleagues: Senator Elaine McCoy, Senator Josée Forest-Niesing and Senator Judith Keating. Over the last few months, I have thought about them on a number of occasions.

We think about our colleagues who are alive and doing well but have retired throughout this year: Senator Doug Black, Senator Linda Frum and Senator Carolyn Stewart Olsen.

We celebrate the coming of some of the new blood and talent as well.

I would also be remiss if I didn't say goodbye to my colleague and friend Senator Thanh Hai Ngo, who is retiring on January 3. He left this place earlier today with the quiet humility he entered with many years ago, but he did work with vigour and dynamism in this place, supporting the things that were dear to his heart. He is a very respected member of the Vietnamese-Canadian community and respected by his colleagues. We wish him well.

I don't want to take up any more time. I want to thank the leaders of the caucus and groups for their generosity in working with me for the last few weeks.

I want to thank all the administration of the Senate, each and every one of them. Without their support, we can't do what we do here.

I want to thank Your Honour and the Deputy Speaker for steering the ship and doing their job with dignity and impartiality.

Merry Christmas to all. All I wish for everyone is health, health and more health in the new year.

[*Translation*]

**Hon. Raymonde Saint-Germain:** Dear colleagues, as this fall session comes to a close, I have mixed feelings of sadness and optimism. First, I would like to express my condolences to our colleagues who lost family members this year. My thoughts are with the families of our three colleagues who passed away: Senator McCoy, Senator Keating and Senator Forest-Niesing. I am also thinking of our colleagues who can't be with us at present because they are ill.

I would also like to highlight, as Senator Housakos just did, the service of an eminent colleague who will be leaving us early in the new year. Senator Ngo served this institution for 10 years with elegance and distinction. Senator Ngo, I will miss your elegant turns of phrase, particularly in the language of Molière. We wish you all the best for a satisfying retirement.

Dear colleagues, this ongoing pandemic has not allowed us to serve our fellow Canadians as well as we would have liked. We have to acknowledge that it also made it harder to hold our debates. It definitely hampered relations and discussions in the Senate Chamber and in the committee corridors. These discussions are important for collegiality and the quality of our working relationship. That is the harsh reality, but the silver lining is the optimism now being expressed in these end-of-year greetings.

We have accomplished a lot, despite everything, to serve the cause of justice and peace in our country and around the world. That is our duty, a duty the Chair reminds us of every day in our moment of reflection at the beginning of the sitting. That is why, on this positive note, I want to acknowledge some of our accomplishments on contemporary issues over this pandemic year, 2021. These accomplishments are having a major impact on the lives of Canadians. I am thinking about the bill that became law on medical assistance in dying, the bill on the United Nations

Declaration on the Rights of Indigenous Peoples, the creation of a National Day for Truth and Reconciliation and, more recently, the ban on conversion therapy. I won't keep going, but there are other major accomplishments that we should celebrate as this fall session comes to an end.

That said, colleagues, we must not let this pandemic get the better of our democracy. I have faith that we will be able to put technology to good use and agree to meet as often as we can, both in the Senate and in committee, for as long as necessary. I suggest that we make this a group New Year's resolution. I truly hope that we can keep this resolution in 2022 and that it won't end up like other resolutions to diet or work out five times a week. I am all the more confident that we will keep this resolution based on what I have heard here today, about the importance of properly fulfilling our role as the chamber of sober second thought.

[English]

I will conclude by thanking all those who work every day behind the scenes with competence and dedication to help us fulfill our demanding mandate. To those in the Senate Administration, in our chamber and committees, and our staffers as well; to all of you, our deepest gratitude.

On behalf of the Independent Senators Group, I wish everyone a happy holiday season as well as a safe and peaceful resting time. Thank you.

• (1510)

**Hon. Jane Cordy:** Honourable senators, I would like to begin by acknowledging that I am joining you from Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq people.

We have arrived once again at the end of our sittings before the holiday break. We have been busy since our return, and the Senate has passed some critical legislation. Our committees are up and running, and many of you have brought important issues to the floor of our chamber for discussion. We've faced challenges but we have always risen to the occasion, and I hope that we have made the lives of Canadians better and easier by the work we do in this chamber.

I would like to thank everyone who makes our work possible during days like this. I won't say "unprecedented times," because after almost two years, the unprecedented times have actually become the norm. Thank you to the clerks, pages, interpreters, stenographers, Information Services Directorate, building services, the Parliamentary Protective Service and Senate Administration staff. Thank you so much for your dedication and hard work in keeping this chamber running smoothly. Without you, we would simply not be here, and never has that fact been more evident than it is now.

Thanks to you, Speaker Furey, for always leading the way with the very best in mind for the chamber and for the people who make it hum. Your concern for the safety of all staff is a true reflection of who you are as a person, and I thank you. And thank you to Senator Ringuette, who has been elected Speaker pro tempore twice in 2021.

[ Senator Saint-Germain ]

I would like to take a moment to thank the PSG leadership team, Senators Dalphond, Bovey and Francis, and all my Progressive Senate Group colleagues for their support and collaboration this year. The PSG is a merry group of senators, and I could not be happier about how we have all come together. Our meetings are full of shared ideas and frank discussions, but also much laughter and collegiality. I look forward to the day when we can be in one room again, and enjoy all that we have built together. It is a privilege to work with each and every one of you.

I would be remiss if I did not mention The Progressives' staff. Every PSG office, and I would say every office on the Hill, has truly excellent people in it, who work hard on behalf of their senators. Thank you so much. And to our leadership staff — Melanie, Caitlin, David, Natasha and Heather, who is on parental leave — a huge thank you for all that you do. As we all know, for the staff who work for us, whether in leadership or in senators' offices, this is not a 9-to-5 job.

Finally, I would like to thank my fellow leaders and facilitators, Senators Gold, Plett, Housakos, Woo and Tannas. Our discussions have not always been sunshine and roses, but we manage to set aside our differences when it counts and do the best we can for the Senate and for all Canadians.

Senator Woo, as you take your leave as facilitator of the ISG, I hope that you look back fondly on your time in that role and take pride in your many accomplishments. Senator Saint-Germain, I look forward to working with you over the next year. It sure will be nice to have two women in the leadership group.

Honourable senators, in normal times we would all be heading back to our respective provinces for some rest and relaxation. For those going home, safe travels. But many of us will simply click "leave the meeting" and head to the next room. So whether travelling across the country or just walking away from the computer, on behalf of the Progressive Senate Group, I wish you all a very happy holiday season and best wishes for the new year. Stay safe, and I look forward to seeing you all again soon.

**Hon. Scott Tannas:** Honourable senators, thank you. I'm conscious of the fact that, being the last one to speak, I'm all that stands between us and the end of things. I want to start by thanking all of our staff for providing their usual standard of service during these unusual and challenging times.

Honourable senators, I want to thank you for your spirit, your goodwill and your wisdom. It's an honour to serve with you. God willing, we will be back together soon to take up our task of serving Canadians again. I know that we will work harder to do it even better than we have done before.

In the meantime, and on behalf of the Canadian Senators Group, I hope you and all Senate family members have a joyous holiday season and a restful winter break. God bless.

**The Hon. the Speaker:** Honourable senators, before we adjourn and return to our families and friends for the winter break, I would like to take a moment to extend my sincerest thanks to all senators, members of our staff, employees of the

Senate Administration and, of course, our pages who continue to faithfully fulfill their duties here in the chamber, even as they write their final exams.

I would especially like to thank the Senate leaders of the various groups and caucuses for their understanding and cooperation in our efforts to keep the health and safety of our colleagues and employees uppermost in our deliberations, especially during this very dangerous time of the Omicron variant outbreak.

[*Translation*]

All the members of our Senate family are working together to support senators and help them do their jobs on behalf of their constituents. I am very proud of the challenges we have overcome this year and the progress we have made together.

[*English*]

I know I speak for all senators as I extend a heartfelt thank you to all of those who support us day in and day out. This includes, of course, all our Senate staff, our colleagues in the Library of Parliament, the Parliamentary Protective Service, International and Interparliamentary Affairs, Food Services and the Translation Bureau. All of them play a pivotal role in the daily functioning of our institution.

[*Translation*]

We all appreciate your dedication, your expertise and your countless contributions to our chamber. Thank you for everything you do for us.

[*English*]

May your holidays be filled with the warmth and spirit of the season, and I hope each of you enjoy some precious time safely spent with family and friends. I look forward to seeing you all with a renewed sense of resolve in 2022.

As you try to spend some quality time with family and friends, please have a family member or a friend hide your cellphone. Stay safe, everybody.

[*Translation*]

**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 sitting be suspended to await the announcement of Royal Assent, to reassemble at the call of the chair with a five minute bell.

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

**Hon. Senators:** Agreed.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1550)

## ROYAL ASSENT

**The Hon. the Speaker** informed the Senate that the following communication had been received:

RIDEAU HALL

December 17, 2021

Mr. Speaker,

I have the honour to inform you that the Right Honourable Mary May Simon, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 17<sup>th</sup> day of December, 2021, at 3:24 p.m.

Yours sincerely,

Ian McCowan

*Secretary to the Governor General and Herald Chancellor*

The Honourable  
The Speaker of the Senate  
Ottawa

Bills Assented to Friday, December 17, 2021:

An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2022 (*Bill C-6, Chapter 25, 2021*)

An Act to provide further support in response to COVID-19 (*Bill C-2, Chapter 26, 2021*)

An Act to amend the Criminal Code and the Canada Labour Code (*Bill C-3, Chapter 27, 2021*)

[*English*]

## ADJOURNMENT

MOTION ADOPTED

**Hon. Marc Gold (Government Representative in the Senate):** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 1, 2022, at 2 p.m.

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

**Hon. Senators:** Agreed.

**Hon. Senators:** Agreed.

(Motion agreed to.)

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

*(At 3:54 p.m., the Senate was continued until Tuesday, February 1, 2022, at 2 p.m.)*

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