



MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, June 9, 2021

(21)

[English]

Pursuant to the order of the Senate of March 30, 2021, the Standing Senate Committee on Legal and Constitutional Affairs met this day by videoconference at 4:46 p.m. [ET], the chair, the Honourable Mobina S. B. Jaffer, presiding. This meeting is considered to have taken place in the parliamentary precinct.

Members of the committee present by videoconference: The Honourable Senators Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, P.C., Cotter, Dalphond, Dupuis, Jaffer and Miville-Dechéne (11).

Other senator present by videoconference: The Honourable Senator Pate (1).

Participating in the meeting: Joëlle Nadeau, Procedural Clerk, Committees Directorate; Michaela Keenan-Pelletier and Julian Walker, Analysts, Parliamentary Information and Research Services, Library of Parliament.

Also present: The official reporters of the Senate.

Pursuant to the order of reference adopted by the Senate on Tuesday, March 16, 2021, the committee continued its consideration of Bill S-203, An Act to restrict young persons' online access to sexually explicit material.

The chair made a statement.

It was agreed that the committee proceed to clause-by-clause consideration of Bill S-203, An Act to restrict young persons' online access to sexually explicit material.

It was agreed that the title stand postponed.

It was agreed that the preamble stand postponed.

It was agreed that clause 1, which contains the short title, stand postponed.

The chair asked whether clause 2 shall carry.

At 5:12 p.m., the committee suspended.

At 5:13 p.m., the committee resumed.

After debate, it was agreed that clause 2 stand postponed.

The chair asked whether clause 3 shall carry.

Clause 3 was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Dalphond, Jaffer, Miville-Dechêne — 10

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

The chair asked whether clause 4 shall carry.

After debate, clause 4 was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Dalphond, Dupuis — 2

The chair asked whether clause 5 shall carry.

After debate, clause 5 was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Dalphond, Dupuis — 2

The chair asked whether clause 6 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended in clause 6, on page 3, by replacing line 32 of the English version with the following:

“secuted for the offence under this Act.”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boyer, Campbell, Carignan, Cotter, Miville-Dechêne — 7

NAYS

The Honourable Senators

Boniface, Dalphond, Jaffer — 3

ABSTENTIONS

The Honourable Senator

Dupuis —1

After debate, clause 6, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boyer, Campbell, Carignan, Jaffer, Miville-Dechêne — 7

NAYS

The Honourable Senators

Boniface, Dalphond — 2

ABSTENTIONS

The Honourable Senators

Cotter, Dupuis — 2

The chair asked whether clause 7 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended in clause 7, on page 4, by replacing line 3 of the French version with the following:

“individus âgés d’au moins dix-huit ans l’accès au matériel”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Dalphond, Jaffer, Miville-Dechêne — 10

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

After debate, clause 7, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Dalphond, Jaffer, Miville-Dechêne — 10

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

The chair asked whether clause 8 shall carry.

After debate, clause 8 was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Dalphond, Dupuis — 2

The chair asked whether clause 9 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended (a) on page 4 by replacing the heading before line 14 and, in clause 9, by replacing lines 14 to 36 with the following:

“Enforcement

9 The Governor in Council may, on the recommendation of the Minister, designate an agency, division or branch of the Government of Canada as the enforcement authority for the purposes of sections 10 and 10.1.”;

(b) on page 5, in clause 9, by deleting lines 1 to 24.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Dalphond, Jaffer, Miville-Dechêne — 10

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

After debate, clause 9, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Dalphond, Jaffer, Miville-Dechêne — 10

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

The chair asked whether clause 10 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended in clause 10, on page 5, by replacing lines 25 to 31 with the following:

“10 (1) If the enforcement authority has reasonable grounds to believe that a person committed an offence under section 4, the enforcement authority may issue a notice to them under this section.

(2) The notice must state

(a) the identity of the person;

(b) that the enforcement authority has reasonable grounds to believe that the person has committed an offence under section 4;

(c) the steps that the enforcement authority considers necessary to ensure compliance with this Act;

(d) that the person must, within 20 days after the notice is issued, take the steps referred to in paragraph (c);

(e) that, if the person fails to take the steps referred to in paragraph (c) within the period set out in paragraph (d), the enforcement authority may apply to the Federal Court for an order requiring Internet service providers to prevent access to the sexually explicit material to young persons on the Internet in Canada; and

(f) that the person may make representations to the enforcement authority in relation to any element of the notice within the period set out in paragraph (d).

10.1 (1) If a person who receives a notice under subsection 10(1) fails to take the steps referred to in paragraph 10(2)(c) within the period set out in paragraph 10(2)(d), the enforcement authority may, within 20 days after the day on which the period ended, apply to the Federal Court for an order requiring Internet service providers to prevent access to the sexually explicit material to young persons on the Internet in Canada.

(2) The enforcement authority that applies for an order under subsection (1) must name, in addition to the non-complying person, any Internet service provider who would be subject to the order as a respondent to the proceedings.

(3) An application made under subsection (1) is to be heard and determined in a summary way in accordance with any special rules in respect of such application under section 46 of the *Federal Courts Act*.

(4) The Federal Court must order any respondent Internet service providers to prevent access to the sexually explicit material to young persons on the Internet in Canada if it determines that

(a) there are reasonable grounds to believe that the person who has been given notice under subsection 10(1) has committed the offence referred to in section 4;

(b) that person has failed to take the steps referred to in paragraph 10(2)(c) within the period set out in paragraph 10(2)(d); and

(c) the services provided by the Internet service providers who would be subject to the order may be used, in Canada, to access the sexually explicit material made available by that person.

(5) If the Federal Court determines that it is necessary to ensure that the sexually explicit material is not made available to young persons on the Internet in Canada, an order made under subsection (4) may have the effect of preventing persons in Canada from being able to access

(a) material other than sexually explicit material made available by the person who has been given notice under subsection 10(1); or

(b) sexually explicit material made available by the person who has been given notice under subsection 10(1) even if the person seeking to access the material is not a young person.

Annual Report to Parliament

10.2 The Minister must cause to be tabled in each House of Parliament, within three months after the end of the fiscal year or, if a House is not then sitting, on any of the first 15 days on which that House next sits, a report on the administration and implementation of this Act. The report must include, for the previous fiscal year,

(a) the number of notices issued under subsection 10(1); and

(b) the number of applications for an order under subsection 10.1(1).”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Dalphond, Dupuis — 2

After debate, clause 10, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Carignan, Cotter,
Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Dalphond, Dupuis — 2

The chair asked whether clause 11 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended in clause 11, on page 6,

(a) by replacing line 9 with the following:

“available for commercial purposes; and”;

(b) by replacing lines 11 to 13 with the following:

“to in subsection 7(1).”.

After debate, the Honourable Senator Cotter moved that the motion in amendment be amended on page 6, by replacing lines 3 to 13 with the following:

“cluding regulations prescribing the age-verification methods referred to in subsection 7(1).”.

After debate, the question being put on the subamendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Cotter, Dalphond, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

After debate, the amendment, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Cotter, Dalphond, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

After debate, clause 11, as amended, was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Cotter, Dalphond, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

The Honourable Senator

Dupuis — 1

The chair asked whether clause 12 shall carry.

After debate, clause 12 was adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Jaffer, Miville-Dechêne — 7

NAYS

NIL

ABSTENTIONS

The Honourable Senators

Cotter, Dalphond, Dupuis — 3

The chair asked whether clause 2 shall carry.

The Honourable Senator Miville-Dechêne moved that Bill S-203 be amended on page 2 by adding the following after line 22:

“Designation of Minister

2.1 The Governor in Council may, by order, designate a federal minister as the minister responsible for this Act.”.

and that Bill S-203 be amended in clause 2, on page 2, by replacing lines 9 and 10 with the following:

“**Minister** means the minister designated under section 2.1. (*ministre*)”.

After debate, the question being put on the motions in amendment, they were adopted on the following vote:

YEAS

The Honourable Senators

Batters, Boisvenu, Boniface, Boyer, Campbell, Cotter, Dalphond, Jaffer, Miville-Dechêne — 9

NAYS

NIL

ABSTENTIONS

NIL

It was agreed that clause 2, as amended, carry.

It was agreed to revert to clause 10.

The Honourable Senator Cotter moved that Bill S-203 be amended on page 4, in clause 10.2, by removing “and” at the end of paragraph (a), by adding “and” at the end of paragraph (b) and by adding the following after paragraph (b):

“(c) the outcome of applications made pursuant to subsection 10.1(1).”.

After debate, the question being put on the motion in amendment, it was adopted.

It was agreed that clause 10, as amended, carry.

It was agreed that clause 1, which contains the short title, carry.

It was agreed that the preamble carry.

It was agreed that the title carry.

It was agreed that the bill carry, on division.

It was agreed that the law clerk and parliamentary counsel be authorized to make technical, numerical and typographical changes and adjustments to the amendments adopted by the committee.

It was agreed that the chair report the bill, as amended, to the Senate.

At 7:01 p.m., the committee adjourned to the call of the chair.

ATTEST:

Mark Palmer

Clerk of the Committee