



MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, October 18, 2023

(59)

[English]

The Standing Senate Committee on Indigenous Peoples met this day at 6:48 p.m., in room C128, Senate of Canada Building, the chair, the Honourable Brian Francis, presiding.

Members of the committee present: The Honourable Senators Arnot, Audette, Coyle, Dalphond, Francis, Greenwood, LaBoucane-Benson, McCallum, Patterson (*Nunavut*), Poirier, Sorensen and Tannas (12).

Other senators present: The Honourable Senator Prosper (1).

Participating in the meeting: Ericka Dupont, Procedural Clerk, Committees Directorate; Sara Fryer, Analyst, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Thursday, May 4, 2023, the committee continued its consideration of Bill C-29, An Act to provide for the establishment of a national council for reconciliation.

WITNESSES:

Department of Justice Canada:

Seetal Sunga, Senior Counsel, Legal Services.

Crown-Indigenous Relations and Northern Affairs Canada:

Mary-Luisa Kapelus, Senior Assistant Deputy Minister, Policy and Strategic Direction;

Kate Ledgerwood, Director General, Reconciliation Secretariat.

The committee resumed clause-by-clause consideration of Bill C-29.

It was agreed that clause 10 carry.

The Honourable Senator Audette moved that, pursuant to rule 10-5, the committee proceed to reconsider clause 7, as amended.

The question being put on the motion, it was adopted.

The committee proceeded to reconsider clause 7, as amended.

The Honourable Senator Audette moved that Bill C-29 be amended in clause 7:

(a) in paragraphs (a) and (b), by deleting the words “to Parliament and the people of Canada”;

(b) in paragraph (b), by adding “of government” after “levels”.

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

It was agreed that clause 7, as amended, carry.

The Honourable Senator Audette moved that Bill C-29 be amended on page 4 by adding the following after line 26:

“7.1 For greater certainty,

(a) nothing in this Act is to be construed as authorizing the Council to act on behalf of, or represent the interests of, an Indigenous governing body; and

(b) no duty to consult an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982* is discharged by consulting or engaging with the Council.”.

At 7:08 p.m., the committee suspended.

At 7:17 p.m., the committee resumed.

Resuming debate on the motion in amendment of the Honourable Senator Audette.

After debate, the question being put on the motion in amendment that new clause 7.1 carry, it was adopted.

The Honourable Senator Patterson (Nunavut) moved that Bill C-29 be amended on page 4 by adding the following after line 26:

“Bilateral Mechanisms

7.1 For greater certainty, if the Government of Canada establishes or has established a bilateral mechanism with a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, that bilateral mechanism is not affected by this Act.”.

After debate, the Honourable Senator Audette moved that the motion in amendment be amended by replacing “a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*” with “an Indigenous governing body”.

After debate, the question being put on the subamendment, it was adopted.

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

It was agreed that new clause 7.1, as amended, carry.

It was agreed that clause 11 carry.

It was agreed that clause 12 carry.

It was agreed that clause 13 carry.

It was agreed that clause 14 carry.

It was agreed that clause 15 carry.

The chair asked whether clause 16 shall carry.

The Honourable Senator Greenwood moved that Bill C-29 be amended in clause 16, on page 7, by adding the following after line 8:

“(3) If the Minister fails to comply with the obligations set out in subsections (1) and (2), the Council may apply to a judge of the Federal Court for a declaration to that effect.”

Seetal Sunga, Mary-Luisa Kapelus and Kate Ledgerwood were invited to the table and answered questions. They answered questions from time to time for the remainder of the meeting.

After debate, it was agreed that clause 16 stand postponed.

The Honourable Senator Greenwood moved that Bill C-29 be amended on page 7 by adding the following after line 8:

“16.01 (1) The Council may apply to a judge of the Federal Court or of a superior court of a province for an order requiring a person, organization or entity in possession of a record relating to the operation, policies or practices of a Canadian residential school or the location of burial sites associated with a Canadian residential school to produce the record for examination by the Council.

(2) The judge may make an order under subsection (1) subject to any terms and conditions that the judge considers appropriate.”

After debate and with leave, the amendment was withdrawn.

The Honourable Senator Audette moved that Bill C-29 be amended in clause 16.1, on page 7, by replacing lines 9 and 10 with the following:

“16.1 The Minister must, within six months after March 31 of each year, submit to the Council an annual”.

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

It was agreed that clause 16.1, as amended, carry.

The Honourable Senator Patterson (*Nunavut*) moved that Bill C-29 be amended in clause 17, on page 8, by replacing lines 7 to 11 with the following:

- “(a) the Government of Canada’s post-apology progress towards reconciliation;
- (b) the progress being made towards reconciliation across all levels of government and sectors of Canadian society; and
- (c) the Council’s recommendations respecting mea-”.

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

It was agreed that clause 17, as amended, carry.

The Honourable Senator Greenwood moved that Bill C-29 be amended on page 8 by adding the following after line 25:

“Funding

17.1 (1) The Council may annually submit a request to the Minister for funding for its operations for the next following financial year.

(2) The Minister may, with the agreement of the Minister of Finance, submit the request to the Treasury Board for approval.

(3) The Treasury Board may specify any terms and conditions it deems appropriate for the approval of the request.

(4) The President of the Treasury Board must have any approved request included in the Main Estimates tabled in Parliament for the fiscal year.

(5) The Minister may, pursuant to the authority of an appropriation Act, pay to the Council any amount that is authorized.”.

After debate, the question being put on the motion in amendment that new clause 17.1 carry, it was negatived.

Resuming debate on the motion in amendment to clause 16 of the Honourable Senator Greenwood that Bill C-29 be amended in clause 16, on page 7, by adding the following after line 8:

“(3) If the Minister fails to comply with the obligations set out in subsections (1) and (2), the Council may apply to a judge of the Federal Court for a declaration to that effect.”.

The Honourable Senator Dalphond moved that the motion in amendment be amended by adding after “effect” the following: “or for any other appropriate order”.

After debate, the question being put on the subamendment, it was adopted.

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

It was agreed that clause 16, as amended carry.

It was agreed that clause 18 carry.

It was agreed that clause 19 carry.

It was agreed that clause 20 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, as amended, carry.

It was agreed that the Law Clerk and Parliamentary Counsel be authorized to make necessary technical, grammatical or other required non-substantive changes as a result of the amendments adopted by the committee, including updating cross-references and renumbering of provisions.

The committee discussed observations.

At 8:58 p.m., the committee adjourned to the call of the chair.

ATTEST:

Andrea Mugny

Clerk of the Committee