



MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, May 10, 2023

(56)

[English]

The Standing Senate Committee on Legal and Constitutional Affairs met this day at 4:20 p.m., in room B30, Senate of Canada Building, the chair, the Honourable Brent Cotter, presiding.

Members of the committee present: The Honourable Senators Batters, Boisvenu, Clement, Cotter, Dalphond, Dupuis, Gagné, Jaffer, Klyne, Patterson (*Nunavut*), Plett, Simons and Tannas (13).

Participating in the meeting: Aoife Mc Donald, Administrative Assistant, Committees Directorate; Julian Walker and Michaela Keenan-Pelletier, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Thursday, March 9, 2023, the committee continued its consideration of Bill C-9, An Act to amend the Judges Act.

WITNESSES:

Department of Justice Canada:

Toby Hoffmann, Director and General Counsel, Judicial Affairs Section;

Patrick Xavier, Senior Counsel, Judicial Affairs Section;

Shakiba Azimi, Counsel, Judicial Affairs Section.

It was agreed that the committee proceed to clause-by-clause consideration of Bill C-9.

It was agreed that the title stand postponed.

It was agreed that clause 1 carry, on division.

It was agreed that clause 2 carry, on division.

It was agreed that clause 3 carry, on division.

It was agreed that clause 4 carry, on division.

It was agreed that clause 5 carry, on division.

It was agreed that clause 6 carry, on division.

It was agreed that clause 7 carry, on division.

It was agreed that clause 8 carry, on division.

It was agreed that clause 9 carry, on division.

It was agreed that clause 10 carry, on division.

It was agreed that clause 11 carry, on division.

The chair asked whether clause 12 shall carry.

The Honourable Senator Batters moved that Bill C-9 be amended, in clause 12,

(a) on page 4, by replacing lines 8 and 9 with the following:

“for the purposes of this Division.”;

(b) on page 5, by replacing line 19 with the following:

“Council and one person from the roster of lay persons have reasonable grounds to believe that the pub-”;

(c) on page 10, by replacing lines 27 and 28 with the following:

“(c) a person named in the roster of lay persons.”;

(d) on page 15, by replacing lines 13 and 14 with the following:

“(a) two members of the Council;

(b) a judge named in the roster of judges;

(c) a person named in the roster of lay persons; and

(d) a lawyer of at least 10 years’ standing at the bar of any province.”.

Toby Hoffmann and Patrick Xavier answered questions from time to time.

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

YEAS

The Honourable Senators

Batters, Boisvenu, Clement, Jaffer, Patterson (*Nunavut*), Plett, Simons, Tannas – 8

NAYS

The Honourable Senators

Dalphond, Dupuis, Gagné, Klyne – 4

ABSTENTIONS

The Honourable Senator

Cotter – 1

The Honourable Senator Clement moved that Bill C-9 be amended in clause 12, on page 5, by replacing line 1 with the following:

“**84** The Council shall name persons”.

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

YEAS

The Honourable Senators

Batters, Boisvenu, Clement, Cotter, Dupuis, Jaffer, Patterson (*Nunavut*), Simons, Tannas – 9

NAYS

The Honourable Senator

Klyne – 1

ABSTENTIONS

The Honourable Senators

Dalphond, Gagné – 2

The Honourable Senator Simons moved that Bill C-9 be amended in clause 12,

(a) on page 5, by adding the following after line 23:

“**86.1** The Council shall, with respect to each complaint received, collect the following information, provided that the complainant consents to its collection:

- (a) the race or Indigenous identity of the complainant;
- (b) the sex and gender identity of the complainant; and
- (c) any disability of the complainant.”;

(b) on page 23,

(i) by replacing lines 17 to 24 with the following:

“setting out, in respect of the year,

(a) the number of complaints

(i) received,

(ii) withdrawn or abandoned,

(iii) dismissed by a screening officer for a reason set out in

(A) paragraph 90(1)(a),

(B) paragraph 90(1)(b), and

(C) paragraph 90(1)(c),

(iv) dismissed by a reviewing member for a reason set out in

(A) paragraph 90(1)(a),

(B) paragraph 90(1)(b), and

(C) paragraph 90(1)(c),

(v) dismissed by a reviewing member for being wholly without merit,

(vi) reviewed by review panels, hearing panels and appeal panels, and

(vii) in respect of which any of the actions referred to in paragraphs 102(a) to (g) were taken;

(b) for each category listed in paragraph (a), the number of those complaints that allege

(i) sexual misconduct, or

(ii) discrimination on the basis of a prohibited ground of discrimination within the meaning of the *Canadian Human Rights Act*;

(c) for each category listed in paragraph (a), in a manner that does not allow for the identification of any complainant, a summary of the information collected under section 86.1; and

(d) for any withdrawn or abandoned complaints, the reasons provided, if any.”,

(ii) by adding the following after line 26:

(3) The Minister may recommend, on the basis of the information contained in the annual report, that the Council establish seminars under paragraph 60(2)(b).

(4) If the Minister makes a recommendation under subsection 3, they shall make it public.”.

After debate, it was agreed that the motion in amendment stand postponed.

At 6:16 p.m., the committee adjourned to the call of the chair.

ATTEST:

Mark Palmer

Clerk of the Committee