



LEGISLATIVE SUMMARY

BILL C-5: AN ACT TO AMEND THE BILLS OF EXCHANGE ACT, THE INTERPRETATION ACT AND THE CANADA LABOUR CODE (NATIONAL DAY FOR TRUTH AND RECONCILIATION)

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Legislative Summary of Bill C-5
(Legislative Summary)

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1 BACKGROUND

Bill C-5, An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Day for Truth and Reconciliation)¹ was introduced in the House of Commons on 29 September 2020 by the Minister of Canadian Heritage. The bill completed second reading and was referred to the House of Commons Standing Committee on Canadian Heritage on 2 November 2020.

Bill C-5 aims to respond to call to action number 80 of the Truth and Reconciliation Commission of Canada (TRC) by creating a statutory holiday for federally regulated employees, to be known as the “National Day for Truth and Reconciliation.” The proposed holiday will take place on 30 September each year to honour First Nations, Inuit and Métis residential school survivors and their families and communities. The holiday will also ensure commemoration of the history and legacy of residential schools.

1.1 RESIDENTIAL SCHOOLS AND THE TRUTH AND RECONCILIATION COMMISSION

Between the late 1800s and the late 1990s, the federal government and several Christian churches operated a system of residential schools for Indigenous children. The schools were part of a federal policy designed to assimilate Indigenous people into Canadian society. Children were often taken forcibly from their homes to attend the schools, and some were forbidden from practising their cultures or speaking their languages. Some children also experienced emotional, physical and/or sexual abuse at the schools.

The TRC was established in 2008 under the terms of the *Indian Residential Schools Settlement Agreement*.² Among other matters, it had a mandate to document the history and legacy of residential schools. The TRC’s 2015 final report included 94 calls to action, covering areas such as health, education and justice. Specifically, call to action 80 called upon the federal government to work with Indigenous people to establish a National Day for Truth and Reconciliation as a statutory holiday. The day would “honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.”³

1.2 ORANGE SHIRT DAY

The date chosen for a proposed National Day for Truth and Reconciliation was 30 September, which “builds on the grassroots momentum of Orange Shirt Day.”⁴ Orange Shirt Day grew from a commemoration project and reunion events for the St. Joseph Mission Residential School, which took place in May 2013 in Williams Lake, British Columbia. Leading up to the events, former residential school student Phyllis (Jack) Webstad shared the story of her first day at residential school, when the new orange shirt purchased for her by her grandmother was taken away.⁵ The orange shirt is a symbol of the losses experienced by former students and their families and communities as a result of the residential school system.⁶ Orange Shirt Day takes place on 30 September, at the time of year when children were taken from their homes to residential school. It also provides context for anti-racism and anti-bullying policies for the coming school year.

Orange Shirt Day honours former students and those affected by residential schools, as well as remembering those who did not survive. It reaffirms that “every child matters,” and focuses on “hope for a better future in which children are empowered to help each other.”⁷ Orange Shirt Day provides an opportunity for meaningful discussion about residential schools and their legacy and enables Indigenous and non-Indigenous people, governments and schools, among others, to come together in the spirit of hope and reconciliation. Some provinces have passed resolutions, proclamations or legislation concerning Orange Shirt Day,⁸ but none to date have made it a statutory holiday.

1.3 PREVIOUS LEGISLATION TO ESTABLISH A NATIONAL DAY OF TRUTH AND RECONCILIATION

During the 42nd Parliament, Bill C-369, An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Indigenous Peoples Day)⁹ was introduced in the House of Commons by Georgina Jolibois (Desnethé—Missinippi—Churchill River). The bill proposed to make National Indigenous Peoples Day, which is celebrated on 21 June, a federal statutory holiday.

At a press conference on 16 August 2018, Prime Minister Justin Trudeau announced that the government would create a statutory holiday “to remember and reflect upon the nature of reconciliation.”¹⁰ He also indicated that the process to name and select the date would be done “in full collaboration and consultation with Indigenous peoples.”¹¹ Following second reading, the bill was referred to the House of Commons Standing Committee on Canadian Heritage (the committee) on 26 September 2018.

The committee studied the bill over six meetings, receiving four briefs and hearing from 28 witnesses.¹² The majority of witnesses supported the idea of a new statutory holiday. However, the committee heard varying opinions on the date that should be

selected and the purpose of the holiday. Witnesses who supported selecting 21 June as the date suggested that the new holiday should be a celebration of Indigenous peoples and connect with existing celebrations throughout the country. For example, Natan Obed, president of Inuit Tapiriit Kanatami, suggested that the day should be positive and forward-looking, showcasing the strengths of Indigenous people and their contributions to Canadian society.¹³

However, other witnesses favoured a day of remembrance of the history and legacy of residential schools, aligned with the TRC's call to action 80. They believed that the holiday, to be held on 30 September, should also "be an educational day" on which Canadians could "acknowledge survivors and move towards reconciliation."¹⁴ As Ry Moran, director of the National Centre for Truth and Reconciliation at the University of Manitoba explained, the holiday would give Canadians "the opportunity to come together with humility, deep respect and sorrow to reflect on the actions that this state has undertaken."¹⁵

Some witnesses, like the representative of the Native Women's Association of Canada, called for the creation of two holidays, to ensure both celebration and commemoration.¹⁶

After considering all submissions and testimony, the committee chose 30 September as the date of the holiday and changed its name to the National Day for Truth and Reconciliation. A clause was also added to explain that the purpose of the bill was to fulfill the TRC's call to action 80.

The amended bill was adopted at third reading on 20 March 2019 and was read for the first time in the Senate on 2 April 2019. The bill died on the *Order Paper* on 11 September 2019 with the dissolution of the 42nd Parliament.

2 DESCRIPTION AND ANALYSIS

Bill C-5 contains six clauses, and the key clauses are discussed below.

2.1 PURPOSE OF THE ACT (CLAUSE 1)

Clause 1 states that the purpose of the Act is to respond to the Truth and Reconciliation Commission of Canada's call to action 80 by creating a holiday known as the National Day for Truth and Reconciliation. Clause 1 contains wording similar to call to action 80.

2.2 AMENDMENTS TO OTHER ACTS (CLAUSES 2 TO 4)

Clause 2 adds the National Day for Truth and Reconciliation on 30 September to the list of legal holidays in the *Bills of Exchange Act* in relation to the computation of time.¹⁷ Clause 3 expands the definition of “holiday” in section 35 of the *Interpretation Act* to include the new holiday.¹⁸

Clause 4 adds the National Day for Truth and Reconciliation to the definition of “general holiday” in the *Canada Labour Code*, making the day a statutory holiday for employees in federally regulated workplaces such as banks and the transportation and broadcasting industries.¹⁹

However, many Canadian workers are subject to provincial employment standards legislation. Provinces may also pass legislation to create the same legal holidays.²⁰

2.3 COMING INTO FORCE (CLAUSE 6)

Bill C-5 comes into force two months after receiving Royal Assent. If the month in question does not have the same calendar day, then it will come into force on the last day of that month. For example, if the bill receives Royal Assent on 15 December, it will come into force on 15 February. However, if it receives Royal Assent on 31 December, then it will come into force on 28 February.

NOTES

1. [Bill C-5, An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code \(National Day for Truth and Reconciliation\)](#), 2nd Session, 43rd Parliament.
2. The *Indian Residential Schools Settlement Agreement* is a negotiated legal settlement of a class action lawsuit filed by former students. The agreement was reached in 2006 and included five components to address the legacy of residential schools, such as the creation of a truth and reconciliation commission and a common experience payment for all eligible former students. See [Indian Residential Schools Settlement Agreement](#), 8 May 2006, p. 6.
3. Truth and Reconciliation Commission of Canada, [Truth and Reconciliation Commission of Canada: Calls to Action](#), 2015, p. 9.
4. Canadian Heritage, [“Government of Canada Introduces Legislation to Establish National Day for Truth and Reconciliation.”](#) News release, 29 September 2020.
5. To see the full story shared by Phyllis (Jack) Webstad, see Orange Shirt Day, [Phyllis’ story: the original orange shirt](#).
6. Orange Shirt Day, [Orange Shirt Day, Every Child Matters: September 30](#).
7. Ibid.
8. For example, see British Columbia, [Proclamation concerning Orange Shirt Day](#), 24 July 2020; Manitoba, [The Orange Shirt Day Act](#), C.C.S.M., c. O73, 2017; and Nova Scotia, House of Assembly, [“Resolution No. 1216,” House of Assembly Debates and Proceedings](#), 2nd Session, 63rd Assembly, 27 September 2019.

9. Note that the name of the bill was changed at second reading. For the first reading version, see [Bill C-369, An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code \(National Day for Truth and Reconciliation\)](#), 1st Session, 42nd Parliament (first reading version, 16 October 2017).
10. John Paul Tasker, "[Ottawa to declare federal holiday to mark legacy of residential school system](#)," *CBC News*, 15 August 2018.
11. Ibid.
12. House of Commons, Standing Committee on Canadian Heritage [CHPC], "Information," [Bill C-369](#).
13. CHPC, [Evidence](#), 1st Session, 42nd Parliament, 29 January 2019, 1530 (Mr. Natan Obed, President, Inuit Tapiriit Kanatami).
14. CHPC, [Evidence](#), 1st Session, 42nd Parliament, 11 December 2018, 1235 (Ms. Barbara Morin, Policy and Human Resources Advisor, Indian Residential School Survivors Society).
15. CHPC, [Evidence](#), 1st Session, 42nd Parliament, 8 November 2018, 1105 (Mr. Ry Moran, Director, University of Manitoba, National Centre for Truth and Reconciliation).
16. CHPC (2019), 1535 (Ms. Virginia Lomax, Legal Counsel, Native Women's Association of Canada).
17. [Bills of Exchange Act](#), R.S.C. 1985, c. B-4, s. 42.
18. [Interpretation Act](#), R.S.C. 1985, c. I-21, s. 35.
19. [Canada Labour Code](#), R.S.C. 1985, c. L-2, ss. 166, 191 and 192.
20. Gabrielle de Billy Brown, Erin Virgint and Caroline Hyslop, [Designation of National Days and Observances in Canada](#), Publication no. 2015-06-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 5 April 2017.