



DEBATES OF THE SENATE

1st SESSION • 41st PARLIAMENT • VOLUME 148 • NUMBER 172

LANGUAGE SKILLS BILL

Second Reading of Bill C-419

Speech by:

The Honourable Claudette Tardif

Tuesday, June 11, 2013

THE SENATE

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[Translation]

LANGUAGE SKILLS BILL

SECOND READING

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I am pleased to speak to Bill C-419, the Language Skills Act. I want to thank the honourable member for Louis-Saint-Laurent, Alexandrine Latendresse, for her legislative initiative.

As a Franco-Albertan who has been working for years on promoting French, on respect for our country's linguistic duality and on strengthening official language minority communities, I support this bill, which would make it mandatory for the 10 officers of Parliament to be bilingual.

Honourable senators, let me remind you that bilingualism is a fundamental value in Canada. The Official Languages Act and the Charter of Rights and Freedoms laid the foundation for linguistic duality and language rights. The Commission on Bilingualism and Biculturalism, which was created 50 years ago, recommended that English and French be formally declared the official languages of the Parliament of Canada, the federal government and the federal courts. The objective was to give Canadians the option to communicate in French or in English with their government, to provide them with equal opportunities to fill federal government positions and to allow them to work in the official language of their choice.

Today, proficiency in both official languages has become an essential skill for those in leadership roles within the federal public service. An increasing number of ministers, members of Parliament, heads of federal agencies and federal employees are bilingual. I would like to repeat what the government reiterated in its 2011 Speech from the Throne, and I quote:

Canada's two official languages are an integral part of our history and position us uniquely in the world.

Despite the progress bilingualism has made, we are still called upon to create legislation regarding this issue, specifically for officers of Parliament, because the bilingualism requirement is not always taken into consideration when appointing people to those positions. Rewind to a few months ago, when the government appointed a unilingual Auditor General. As a result of its decision, the government received many complaints and a strong rebuke from the Commissioner of Official Languages for not having considered the bilingualism requirement.

In fact, in his preliminary report on the investigation, the Commissioner of Official Languages concluded that the Privy Council Office failed to meet its obligations by not taking into consideration the language requirements set out in subsection 24(3) of the Official Languages Act, which mentions the Office of the Auditor General specifically. It clearly disregarded the intent of Parts IV, V and VII of the Act during the process of appointing Mr. Ferguson as Auditor General.

Clearly, the government made a grave error in appointing a unilingual anglophone as Auditor General. I am in no way calling into question the abilities of the Auditor General, whom I hold in high regard. It was also a mistake to try and convince Canadians that an officer of Parliament can quickly learn French, knowing full well that it is an elusive goal.

Since the role of Auditor General is very demanding in terms of responsibilities and availability, it would be quite the achievement for him to learn a second language in such a short period of time. Our colleague, Senator Joyal, said the following in a meeting of the Committee of the Whole in the Senate in November 2011:

There is a distinction between someone who is willing to learn languages and someone who must master the language when he or she holds the position.

It is laudable for someone to commit to learning a second language, but we have to be realistic and take the circumstances into consideration. All Canadians, both francophones and anglophones, expect senior officials to be bilingual. Officers of Parliament must be able to work in both official languages.

Such a bill would not normally be necessary, but when a unilingual Auditor General was appointed, it became clear that there was no guarantee that the Official Languages Act would be honoured. That is where Bill C-419 comes in. This bill would make it mandatory for anyone appointed to this position to be bilingual. Officers of Parliament must be able to understand both official languages at the time of their appointment.

The bill states that persons appointed to certain offices must be able to speak and understand clearly both official languages. The bill lists the following 10 offices: the Auditor General of Canada, the Chief Electoral Officer, the Commissioner of Official Languages for Canada, the Privacy Commissioner, the Information Commissioner, the Senate Ethics Officer, the Conflict of Interest and Ethics Commissioner, the Commissioner of Lobbying, the Public Sector Integrity Commissioner and the President of the Public Service Commission.

Honourable senators, I would like to emphasize the merits of this bill while sharing some comments with you regarding some of the amendments proposed in committee relating to the original bill. During the Committee of the Whole in the Senate on March 20, 2013, the Commissioner of Official Languages, himself an officer of Parliament, clearly indicated the importance of bilingualism in response to my question on Bill C-419. He said:

It is important that the individuals who hold these positions personify the role to some extent. I am not the chair of an official languages commission; I am the Commissioner of Official Languages, and parliamentarians expect to be able to speak to me in French or in English, and rightly so. The same goes for all other commissioners, whether it be the Privacy Commissioner, the Information Commissioner or the Auditor General.

During his speech at third reading of Bill C-419, on May 29, 2013, the Honourable Stéphane Dion eloquently presented reasons that justify bilingualism as an essential qualification for such critically important positions as those of officers of Parliament.

First of all, given that these officers of Parliament are here to serve Parliament, they must be able to communicate with all parliamentarians. They are often called upon to explain the results of their work, to table reports and to appear before parliamentary committees.

The second reason has to do with the fact that these officers have to make important decisions based on written information. Being able to read both official languages is essential because officers of Parliament must consult many documents that come from across Canada, many of which are in French. Thus, this competency includes the ability to read in both official languages.

The third reason concerns the bilingual capacity of a particular office. Consider the Office of the Auditor General, which must be able to work in both official languages. In fact, we know that in practice if senior management is unilingual, it is highly likely that everything will be done in that one language. Senior management should be able to use both official languages to ensure the office can function in both official languages. This will encourage upwardly mobile employees to become bilingual.

Another important reason relates to the fact that officers of Parliament should also be very good communicators. Officers of Parliament are increasingly featured in the media, given the nature of their contributions, the increasing visibility of their offices and public expectations. They must communicate with all Canadians clearly and accurately in both official languages.

• (1750)

Officers of Parliament are in a very high-profile role. They must be very skilful at communicating in our country's two official languages at all times.

We also need to send a clear message to the youth of our country. Those who are ambitious and want to reach higher ranks of responsibility need to learn both official languages. Appointing people who are highly bilingual to high-level positions, such as those of officers of Parliament, will have a positive influence on future candidates for those positions.

I am convinced that this bill will encourage a growing number of people to persevere and push themselves even harder to learn either of our official languages. We can also hope that appointing bilingual officers of Parliament will encourage post-secondary establishments to offer more language courses as well as programs in our country's two official languages.

Here, in the Hon. Stéphane Dion's words, are the benefits of being bilingual:

...some positions with national responsibilities in this country require a mastery of both official languages. Moreover, those languages are international languages, and provide an excellent window on the world. Let us therefore do everything we can to promote this splendid asset we possess, instead of trying to weaken it.

I would like to share with you my observations about the amendments that were approved when the bill was studied in committee. It is unfortunate that when it was being studied by the House of Commons Standing Committee on Official Languages, the bill was stripped of its preamble and two clauses.

Allow me to provide my observations on these amendments that diminished the scope and flexibility of this bill. First, we know, honourable senators, that generally speaking, the preamble outlines the spirit of the bill and its underlying objectives. I would like to read what the preamble stated in the first version of Bill C-419.

Whereas the Constitution provides that English and French are the official languages of Canada;

Whereas English and French have equality of status and equal rights and privileges as to their use in all institutions of Parliament;

Whereas members of the Senate and the House of Commons have the right to use English or French during parliamentary debates and proceedings;

And whereas persons appointed with the approval by resolution of the Senate, the House of Commons or both Houses of Parliament must be able to communicate with members of those Houses in both official languages;

It is disappointing that the preamble of this bill was eliminated because it laid out the merits of the bill. It stressed that our language rights are equal and it would have helped in interpreting the statute. In my experience, it is always important to remember that in Canada, our two official languages have to be treated equally. In other words, neither language is better or worse than the other. What is more, the Official Languages Act, a quasi-constitutional law, must be respected.

Second, the bill would have required persons appointed with the approval by resolution of the Senate, the House of Commons or both Houses of Parliament to understand French and English without the help of an interpreter and to express themselves clearly in both official languages. Now the beginning of clause 2 reads:

Any person appointed to any of the following offices must, at the time of his or her appointment, be able to speak and understand clearly both official languages...

Note that the phrase "without the aid of an interpreter" was removed. Unfortunately, this weakens the bilingualism requirement. I would like to remind honourable senators that the phrase "without the assistance of an interpreter" appears in subsection 16.1 of the Official Languages Act, a provision that applies to the Federal Court. The phrase "without the assistance of an interpreter" is a pretty good benchmark for the high level of language proficiency needed to hold the position of Federal Court judge.

I am not convinced by the government's arguments as to why this phrase should be removed when it comes to the appointment of bilingual officers of Parliament. The phrase "without the aid of an interpreter" sets a higher standard for the required level of bilingualism than the expression "clearly understand."

I do not understand why the government chose to eliminate the phrase “without the aid of an interpreter”, when a similar expression is used in the Official Languages Act, explicitly requiring a high level of bilingualism for senior positions.

Marie-France Kenny, president of the Fédération des communautés francophones et acadienne du Canada, testified before the Standing Committee on Official Languages on Tuesday, March 26, 2013, before the clause-by-clause consideration of the bill. She said:

[Allow] me to give you the citizen’s point of view [on required language skills]. French-speaking Canadians expect to be able to hear the Auditor General speak in French to explain the government’s major financial management issues. They expect to be able to speak with the Privacy Commissioner in their own language. In short, the capacity to speak to the public and understand them without using an interpreter is essential. It requires advanced oral and comprehension skills.

Clause 3 of the bill was also removed. That clause provided that the Governor in Council could, by order, add offices to the list established in clause 2. This provision gave the bill some flexibility because it meant that other positions could be added to the list of 10 officers of Parliament. It is unfortunate that clause 3 was removed. It reflected a longer-term commitment to bilingualism among senior government officials.

My next observation refers to clause 4 in the original bill. Through another amendment, this provision was completely removed. It read as follows:

In the event of the absence or incapacity of the incumbent of any of the offices listed in section 2 or vacancy in any of these offices, the person appointed in the interim must meet the requirements set out in section 2 (in other words, the bilingualism requirements).

Without that provision in the bill currently before us, I believe there is a real risk that someone who is not bilingual could be appointed on an interim basis. An acting appointment can last several months before a permanent appointment is made. Since this detail is no longer clearly stated in the bill, what guarantee do we have that all interim appointments to officer of Parliament positions will be occupied by bilingual individuals?

As this bill is interpreted in its amended form, I can only hope that the language skills targeted by Bill C-419 will be incorporated into the position, no matter who holds the position, and that anyone appointed on an interim basis will also be bilingual. Any incumbent of a position set out in Bill C-419, whether that person is appointed on an acting or a permanent basis, must have the language skills required by the position. This objective was a determining factor and essential to guaranteeing that these officer of Parliament positions respect the bilingualism principle at all times.

Honourable senators, we must be vigilant, and we are within our right to question whether the government will respect its commitment to honour this bill once it becomes law. I hope it will do everything possible to enforce this bill fairly and to respect the rights of the people who want to express themselves and be understood in either of our official languages.

Canadians have the right to demand that people holding crucial roles in Parliament be fluent in both official languages. This includes the positions of officers of Parliament.

In conclusion, honourable senators, I want to reiterate that English and French have equality of status and equal rights and privileges as to their use in Parliament. I want the government to take a strong leadership role in implementing this bill and in the appointment process for these positions. I sincerely hope that all senators in this chamber will work together to ensure that this bill receives Royal Assent soon.

[English]

The Hon. the Speaker *pro tempore*: Will the honourable senator accept a question?

[Translation]

Senator Tardif: Yes, certainly.

[English]

The Hon. the Speaker *pro tempore*: Honourable senators, before I take the question, I notice that the clock is getting close to 6 p.m. What is your pleasure with respect to seeing the clock, Honourable Senator LeBreton?

Hon. Marjory LeBreton (Leader of the Government): I would recommend we carry on with the Order Paper, Your Honour, and not see the clock.

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

Hon. Senators: Agreed.

[Translation]

Hon. Andrée Champagne: Honourable senators, my question is for the honourable Senator Tardif. Following the same logic, should we not be designing a bill that would make it essential for every person who is elected to the House of Commons and appointed to the Senate of Canada to know both languages and be bilingual? That would fix a lot of problems.

• (1800)

Senator Tardif: That would definitely be a good thing, Senator Champagne, but I do not think that we are there yet.

Senator Champagne: That is too bad.

Senator Robichaud: Honourable senators, I am under the impression that the purpose of the bill currently before us is simply to strengthen another law, namely the Official Languages Act. All sorts of ways have been found to circumvent the requirements of the Official Languages Act.

Is Senator Tardif convinced that there is no way for the government to get around this bill when it is appointing officers of Parliament?

Senator Tardif: Honourable senators, I believe that we have to remain vigilant. However, I am confident that this bill will serve as an additional tool to reinforce the obligation to promote the equality of status of our country’s two official languages.

Hon. Maria Chaput: Does this bill mean that the next time an officer of Parliament position is posted, the posting will have to indicate that proficiency in both official languages is mandatory?

Senator Tardif: According to the bill, it is a prerequisite to appointment and so the job posting would have to include that requirement.

Senator Robichaud: I have another question, honourable senators. Senator Tardif said earlier that the bill was amended

in the other place. Has she considered reintroducing the part of this bill that was eliminated or amended? From what she was saying, it strengthened the bill considerably.

Has the honourable senator considered reinstating the bill in its original form?

Senator Tardif: Honourable senators, I do not think that the members of the Official Languages Committee can make a decision like that until we have heard from the witnesses.
