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JUSTICE

Alberta—Judicial Appointments—
Access to Justice in French

Question by:

The Honourable Claudette Tardif

Thursday, February 27, 2014

THE SENATE

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[Translation]

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ALBERTA—JUDICIAL APPOINTMENTS— ACCESS TO JUSTICE IN FRENCH

Hon. Claudette Tardif: Honourable senators, my question is for the Leader of the Government in the Senate.

The budget tabled by the Minister of Finance on February 11 proposes to create two new federally appointed positions on the Alberta Court of Queen's Bench.

Will the government ensure that these new judges are able to hear cases in French?

Hon. Claude Carignan (Leader of the Government): As you know, Senator Tardif, we are talking about Canada's Economic Action Plan, which provides for the creation of a number of new positions for judges in the provinces.

Committees made up of members of the public and bar associations are responsible for establishing the criteria for appointing judges. These committees must ensure that judges are able to hear cases.

Senator Tardif: I have an additional question. A study by the Commissioner of Official Languages published in 2013 confirms that appointing an insufficient number of bilingual judges is a major obstacle, which means that we are not guaranteed that a bilingual judge will be available, as required by law.

Budget 2014 sets aside \$4.4 million to create new federally appointed judicial positions.

Will this money improve access to justice for all Canadians, or will this investment exclude francophones in minority communities?

Senator Carignan: Senator, as I said, there are specific criteria for appointing judges. There is a judicial appointment process, and choices are made based on these criteria and this process. A list of recommended candidates is drafted. The Minister of Justice appoints judges based on the recommendations of the committee,

in accordance with criteria that include the candidates' competence.

Senator Tardif: Mr. Leader, under the law, every accused has the right to be tried before a judge, a Crown attorney and a jury who speak the official language that is the language of the accused. These rights are very clear.

How can we ensure that these rights are respected if no bilingual judges are appointed?

Senator Carignan: Senator, the positions are filled according to certain criteria, including competence. With respect to the administration of justice and the management of the roles of the courts, as you know, judges — and you mentioned this — who hear cases must do so in the language of the accused and/or must provide for translation in some cases. It is a matter of managing roles when cases are assigned, to ensure that the accused's fundamental rights are respected.

Senator Tardif: Access to justice in French is a particular problem in Alberta. What is keeping the government from appointing qualified individuals in areas where there is a lack of services in French?

Senator Carignan: We have invested significant amounts in the Access to Justice in Both Official Languages Fund, which also supports language training for bilingual participants in the justice system across Canada. We provide financial support so that Crown prosecutors, judges, bailiffs, probation officers, court interpreters and police officers can provide services in both official languages. That also includes a long-term training program that focuses on the needs of provincially appointed judges who preside over criminal trials as well as programs to help participants in the justice system provide services to members of the public in the language of their choice.

The federal government is committed to making every effort to ensure that people can speak and understand both official languages so that they can provide services. As for respecting basic rights and assigning a judge who understands the accused's language, to respect the constitutional rights of the accused, it is a question of managing roles to ensure that the judge hearing the case can understand what is happening or that translation is provided, depending on the case and the court, and that the judge complies with the provisions of the Criminal Code.