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Chair

The Honourable Michael Chong

Standing Committee on Official Languages

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•(1530)

[Translation]

The Chair (Hon. Michael Chong (Wellington—Halton Hills, CPC)): Welcome to the 75th meeting of the Standing Committee on Official Languages on this Thursday, April 18, 2013.

We are here pursuant to the order of reference of Wednesday, February 27, 2013 to consider Bill C-419, An Act respecting language skills.

[English]

Right now, we're in clause-by-clause consideration and we will begin where we left off last meeting, which is in debate on clause 4.

I will give the floor to Monsieur Godin.

(On clause 4—*Interim appointment*)

[Translation]

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chair.

I think I said all I had to say about clause 4 on Tuesday. I cannot believe the government wants to strike this clause, the principle of which is that the persons appointed on an interim basis to an agent of Parliament office, or to one of the 10 offices set out in the bill, must be bilingual. It is simply brushing aside this clause respecting interim appointments.

This is important in our view. The Commissioner of Official Languages said the same thing. Even the QCGN was clear on the matter: either you are bilingual or you are not; either you accept bilingualism or you do not. Even that group of Quebec anglophones has strongly accepted it, as has the francophone group the FCFA.

That is our position, Mr. Chair. Thank you.

The Chair: Thank you.

Does anyone else have any comments?

Mr. Dion, you have the floor.

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): I agree. I do not see why the government party wants to do this kind of thing.

The Chair: Mr. Gourde, you have the floor.

Mr. Jacques Gourde (Lotbinière—Chutes-de-la-Chaudière, CPC): I want to note that the addition of this language requirement for interim appointments, which sometimes must be made quickly, may cause problems. We believe we must allow flexibility so that

institutions can operate properly. That is why we will vote against clause 4.

The Chair: All right, thank you.

Mr. Dion, you have the floor.

Hon. Stéphane Dion: I would like to ask the following question.

What are the—

The Chair: Please address your question to the chair.

Hon. Stéphane Dion: Yes, Mr. Chair.

I would like to ask the following question. What other examples can be cited of differences in skills between the person who occupies an office on an interim basis and the incumbent? The country must have these agents; someone always occupies these positions. A person is said to be in a position on an interim basis because that person is not appointed to the office on a permanent basis. During the interim appointment, the individual is supposed to be up to the same standard as the other person, the one who will occupy the office permanently.

Is there anything, any right, law or regulation, that permits the person who occupies the office on an interim basis to be less qualified than the incumbent?

That is a question I am putting to the government party.

•(1535)

Mr. Jacques Gourde: The answer is the same, Mr. Chair.

Hon. Stéphane Dion: I believe that will raise a legal problem with regard to the act and that you are exposing yourselves to lawsuits. The country must have agents of Parliament who have consistent skill levels. Even if you appoint an individual to an office on an interim basis, that individual is not supposed to be less qualified than the incumbent.

I believe you would have lawsuits on your hands if you ever appointed a unilingual person on an interim basis. The act could be open to challenges. That is what I believe, Mr. Chair. I think this is a valid objection and I would like to have a response. Perhaps we should take the time to consider the matter before submitting a bill that could be challenged to our colleagues in the House.

[English]

The Chair: I see no further debate. I'm going to call the question now.

So everyone's clear, members of the committee have a number of choices. They can amend the clause. They can allow the clause to stand, which means that we'll come back to it later for consideration. They can allow the clause to be adopted as it is written, or they can negative the clause.

If you indicate yea, I will interpret that as meaning you are in favour of adopting the clause as it is. If you indicate nay, I will interpret that as your wanting to negative the clause.

[*Translation*]

Mr. Godin has requested a recorded division. I therefore hand the floor over to the clerk.

[*English*]

(Clause 4 negated [See *Minutes of Proceedings*])

The Chair: The clause will be removed from the bill when it is reported back to the House.

Shall the short title carry?

(Clause 1 agreed to: yeas 11; nays 0)

The Chair: We will now go to consideration of the preamble.

[*Translation*]

Are there any comments or questions on the preamble?

Mr. Godin, you have the floor.

Mr. Yvon Godin: Thank you, Mr. Chair.

I see the direction the government is taking once again. You know, this is not the first bill to have a preamble. It explains the bill. The Commissioner of Official Languages said it clearly: it helps ordinary people understand why the act exists. That is what the preamble provides. It also states who these people are who are appointed by resolution of the Senate or the House.

The government said this week that it was simply something repetitive and that it could be read elsewhere. I would like to say that there is nothing better than a clear act. In this case, I absolutely cannot see where the government is headed with this.

We would like to retain the preamble for the good of ordinary people. At least they will have access to the record and will be able to read this in the preamble:

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

Why would the government be opposed to that?

The preamble then states:

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

I cannot see how that can pose a problem.

The preamble continues as follows:

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

I do not see a problem there either.

The preamble also states:

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;

I do not think any parliamentarian wants to be unable to speak his or her own official language. That is the power that Parliament has given us.

The preamble ends with the following words:

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Our position is to vote in favour of the preamble.

● (1540)

The Chair: Thank you, Mr. Godin.

Mr. Trottier, you have the floor.

Mr. Bernard Trottier (Etobicoke—Lakeshore, CPC): Thank you, Mr. Chair.

Even the commissioner said that the preamble served to provide a framework for clause 3, which was somewhat unlimited. I am talking about the number of positions that could be added to that list. Since clause 3 has been stricken, we no longer need the preamble, which merely repeats things that are stated in the Constitution. That is why we can shorten the bill.

[*English*]

The Chair: Merci.

I want to let members know that they have been given a copy of the proposed change from Mr. Gourde and Mr. Trottier. I want to make sure that we're all aware of that.

I further want to indicate that if this change is to be adopted by the committee, it is simply by a negating of the preamble. In other words, the paragraph that begins with "Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows" is not considered part of the preamble. If the preamble is struck, that paragraph will remain in the bill.

[*Translation*]

I am talking about the paragraph that begins with "Now, therefore, Her Majesty".

[*English*]

Hon. Stéphane Dion: So this one will remain; I understand.

The Chair: That's right.

[*Translation*]

That remains the same if the preamble is stricken by the committee.

[*English*]

Hon. Stéphane Dion: Yes.

The Chair: We will go to Mr. Benskin first.

Mr. Tyrone Benskin (Jeanne-Le Ber, NDP): In the last meeting, I think it was Mr. Chisu who had asked why we need a preamble. There are preambles in other parts of the language act, so why do we need one here?

I think it's important to have this preamble to reiterate and to encapsulate what this bill is supposed to be about. To take a preamble from another bill and try to apply it, or to take the intention of another bill or another part of the act and apply it to this.... Never mind the legal consequences that might arise, two different parts of the act have two different meanings.

I think this reiterates the importance of this bill and why this bill was brought forward in the first place. It reiterates—or it should—this committee's stance and the government's stance on linguistic duality and the importance of having, in particular, these designated positions as agents of Parliament, which is what this bill is about.

I think we run into the same problem we had prior to this bill, where assumptions are made that it makes sense that this should happen or it makes sense for that to happen. We saw with the engagement of a unilingual auditor general that common sense doesn't always prevail.

This is a guideline. This is a means of saying not only to this government but to future governments that this is the intent of both this bill and the language act. This is to remind us and help us get to a point where we don't make that same mistake again. I think it's our job as legislators to do that, to think forward in that respect. I think the preamble does outline the purpose and give a wider scope or a wider understanding of what the purpose of Bill C-419 is.

Thank you.

The Chair: Is there any further debate?

[*Translation*]

We will hear from Ms. Michaud, and then Mr. Dion.

Ms. Éline Michaud (Portneuf—Jacques-Cartier, NDP): Thank you.

I want to repeat what my colleague so eloquently said. This is another attempt to water down the bill that has been introduced here. Quite honestly, I have heard no valid argument for striking the preamble. The commissioner said the same thing when he testified before us; that is to say that he had heard no valid argument from the government or anyone else that would justify striking it. He gave the same response when he left us: he still had not heard any valid argument that would justify striking the preamble.

I unfortunately have no choice but to suspect a lack of political will to promote bilingualism as it should be promoted. If one does not even dare reaffirm basic principles such as the importance of bilingualism in our country, if one votes against those principles and strikes them from the bill, what does that show?

The commissioner clearly said that the preamble had an interpretative value and that its purpose was not to provide a framework for clause 3 or anything else. It provides a little more material for legal experts and people who will have to interpret this act as part of their work.

The arguments heard to date are not valid. I am not the only person who has said so. Several stakeholders mentioned it before this committee. I find it extremely unfortunate that we have come to this pass and that we, all parties together, can no longer even affirm the

importance that we attach to bilingualism. This is extremely disappointing.

● (1545)

The Chair: Thank you, Ms. Michaud.

Mr. Dion, you have the floor.

Hon. Stéphane Dion: My question is for Mr. Gourde, Mr. Trottier and my esteemed colleagues of the government party.

They are right in saying that a preamble is not necessary, but it is useful. That is why the vast majority of bills have a preamble. This time, the government has made the exceptional decision to strike the preamble.

We therefore immediately suspect that you do not approve of the preamble. However, I cannot believe that one of the three parties represented in the House of Commons is opposed to the following:

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

I cannot believe that the party of Brian Mulroney and all the others who followed him are opposed to that idea. That makes no sense.

The second paragraph of the preamble reads as follows:

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

We all agree on that. If one colleague disagreed, that would be quite staggering, Mr. Chair, particularly coming from the Standing Committee on Official Languages.

The third paragraph of the preamble states:

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

[*English*]

Well, we have this right. I don't see why we'd question that. There is no reason to be against these three paragraphs. You're telling us it's so obvious that we don't need them. You may make this argument, but you cannot make that argument for the last one. The last one is in a category that I would call helpful.

[*Translation*]

That explains the purpose of the bill. We know it, but legislators in 5, 10 or 20 years will have to know it as well. That is what a preamble is for. The purpose of a preamble is to remind the legislators of tomorrow why the legislators of today wanted to adopt this bill. The preamble explains it very clearly:

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;

This is the only place where it is mentioned. If you strike this paragraph, no one will know why the bill exists. We have a list of names, but no one will know what they are for. Here we are told that they are individuals elected by both Houses. This clause is useful. The others may be obvious, but sometimes it is good to recall that our country is bilingual and that its two official languages are equal.

I therefore ask the government party to tell us its reasons for striking this preamble.

The Chair: Thank you, Mr. Dion.

Mr. Gourde, you have the floor.

Mr. Jacques Gourde: Thank you, Mr. Chair.

This proposed preamble is self-evident. It is already in the Canadian Charter of Rights and Freedoms. You say it appears nowhere else, but that is false, since it already appears as is in the charter. So it merely repeats something that already exists. I believe we simply do not need to weigh down the bill.

The Chair: Mr. Dion, you have the floor.

Hon. Stéphane Dion: Perhaps I was unclear.

The first three paragraphs do address well-established facts. Since they are well established, we do not need to strike them. We can leave them there; they will do no harm. If you feel that clutters the bill, that is not that serious.

However, the fourth paragraph is useful because it gives us information that explains the purpose of the bill. If we strike it, we no longer know the bill's purpose. You and I know it, all our colleagues and the people in this room know it, but, in 10 or 20 years, people will have to refer to the proceedings of this committee to know it. If it is in the preamble, it will be clear for all Canadians, not just for legislators.

• (1550)

The Chair: Thank you, Mr. Dion.

Mr. O'Toole, go ahead, please.

[English]

Mr. Erin O'Toole (Durham, CPC): Thank you, Mr. Chair.

I think my colleagues on the other side have said a number of things that are talking around the subject of legislative intent, and that the preamble, in Mr. Dion's words, is the only way that 10 years from now, people...

The best way to decide the legislative intent of an act from a legal standpoint is actually through the debates in the House. Madame Latendresse, who is here, spoke about her reasons for introducing a bill in the House of Commons. It passed unanimously several weeks ago. She's here now watching intently. I would suggest, Mr. Chair, that this is how people 10 years from now will see how the legislative intent from that bill came forth, from the House.

The preamble does serve some purposes, but to put it out there as the only way for us to really uncover the roots of this act is not accurate. I would suggest that the debates in Hansard, including Madame Latendresse's passionate remarks in the House and in committee, give that context very clearly.

The Chair: Thank you very much, Mr. O'Toole, for your legal views.

[Translation]

Mr. Dion, you have the floor.

Then we will hear from Mr. Godin.

[English]

Hon. Stéphane Dion: I appreciate that, Mr. O'Toole. I would suggest something slightly different.

The preamble is the best way. If I said "the only way", I was indeed wrong. It's the best way because it's the easiest way. You don't need to go into the archives. You have it right in front of you when you see the bill. Usually we go to the archives to see the debates when there is controversy, when there are questions about the intent of a bill. But when there is no controversy, when it's only to remind us what the purpose was, that's why we have a preamble.

It's not helpful to eradicate the full preamble as you are proposing.

The Chair: Thank you very much, Mr. Dion.

Monsieur Godin.

Mr. Yvon Godin: I hear Mr. O'Toole, but at the same time I don't know if he's a lawyer. It looks like he's a lawyer.

[Translation]

Mr. Corneliu Chisu (Pickering—Scarborough East, CPC): He is a lawyer.

[English]

Mr. Yvon Godin: I know lawyers get paid for every minute they work. Maybe they'll get more money to go look into the history of Parliament and read everything that has happened and all the minutes, and that way he could get paid. I don't know. I'm not accusing Mr. O'Toole of that.

But if I were a lawyer, which I am not, and I'm doing my research and I read a bill, I think it's nice to see it right there and not have to go anywhere. Not being a lawyer, I don't get paid per minute.

I think it's just information and it is a small paragraph. If what Mr. O'Toole is saying is right, then I'd like to see if we're going to see any preambles that are repetitive in any of the other bills coming out in one year, two years, or four years.

I think this just shows the willingness of the government to accept that.... Finally they are saying for people named by the Parliament and the Senate, here it is and here's the reason for it. It is because they are named by Parliament. Then when you read it, you don't have to go look at all those minutes because it takes a long time. You have to know how to do it, how to get in there and get all the Hansards and what have you.

At the same time, I don't know why we didn't take the list and add the president of Radio-Canada and the chair of Radio-Canada and of the CRTC, because they all really have to be bilingual. We might as well work on the list right now and then we don't have to come back to it.

What we want to include are those who are named by Parliament, which is clear and was part of the preamble.

[Translation]

The Chair: Thank you.

Mr. Benskin, you have the floor.

Mr. Tyrone Benskin: We said why we needed the preamble.

[English]

How do you feel having the preamble hurts this bill? How do you feel having the preamble limits how this bill can work?

From our perspective, we've talked about why we feel it's important to have the preamble in there, but I'm really not understanding how the preamble hurts the implementation of this bill if it stays.

• (1555)

The Chair: Thank you very much, Mr. Benskin. I'm not sure I can answer your question.

Are there any further interventions on the preamble?

Shall the preamble carry?

Sorry?

Hon. Stéphane Dion: Is it possible to vote on each paragraph of the preamble?

The Chair: No.

Hon. Stéphane Dion: Because I made the argument that the three first paragraphs are something we know and are good to repeat, but that the fourth one is something helpful.

The Chair: No.

Hon. Stéphane Dion: There is a difference in the nature of these four paragraphs.

[*Translation*]

The Chair: No, it is not possible. If you want to move an amendment to the preamble—

Hon. Stéphane Dion: Yes.

The Chair: —we can vote on this amendment and then the preamble as amended.

Hon. Stéphane Dion: When may I propose the amendment? Will it be after they have destroyed the preamble or before it?

[*English*]

The Chair: We cannot vote on each individual component of the preamble. We vote on it as a whole and we either adopt it or negative it. If you wish to break it up into components, that will remain and components that will be struck—

Hon. Stéphane Dion: Yes.

The Chair: —then you need to propose an amendment. If you want to do that, I'll give you the floor to do so.

[*Translation*]

Hon. Stéphane Dion: I propose the following amendment. I propose that we not delete the text starting nine lines above the words “*Sa Majesté*”, in other words that the words “*Sa Majesté*” not be preceded by the deleted lines; that is not respectful.

The Chair: Can you repeat your amendment?

Hon. Stéphane Dion: I propose, by way of amendment, that the eight lines above the words “*Sa Majesté*” not be struck. There are eight lines in English and nine in French. That is a very original amendment, Mr. Chair.

The Chair: Yes, thank you.

[*English*]

We have an amendment in front of us—

[*Translation*]

Hon. Stéphane Dion: And it is monarchical.

[*English*]

The Chair: which is to strike in both—

Mr. Royal Galipeau (Ottawa—Orléans, CPC): No, it is to not strike—

Hon. Stéphane Dion: Remove the strike.

The Chair: We have an amendment to strike the first 10 lines of—

Hon. Stéphane Dion: No, it's not to strike anything. I want to de-strike. I don't want to be responsible for any strike.

Some hon. members: Oh, oh!

[*Translation*]

Mr. Jacques Gourde: It is confusing, Mr. Chair.

[*English*]

The Chair: We have an amendment in front of the committee that would strike lines 1 through 10 inclusive of both the English and—

Hon. Stéphane Dion: I withdraw. We don't want that.

The Chair: Okay, but that's the way—

Hon. Stéphane Dion: If you don't want to do it the way I want, I withdraw.

The Chair: I can't do it the way you want.

Hon. Stéphane Dion: I don't want to strike anything. I want to de-strike—to leave it.

The Chair: I understand, Mr. Dion, what you're trying to do. Just give me a moment.

[*Translation*]

Hon. Stéphane Dion: I prefer to do nothing. I withdraw the amendment because it is going nowhere.

Mr. Jacques Gourde: Mr. Chair, he has withdrawn it.

Hon. Stéphane Dion: I do not want to be responsible. I do not want to be the first person to strike anything.

Mr. Jacques Gourde: It is withdrawn, Mr. Chair.

The Chair: Mr. Dion, the way in which you want to present your amendment is inadmissible.

Mr. Jacques Gourde: He has withdrawn it.

[*English*]

The Chair: The only other way to do it is the way I've suggested, which is to present the amendment in the form that would strike lines 1 through 10 inclusive of both the English and the French text.

If you're not willing to move that amendment, then I'll go to the consideration of the preamble as unamended.

Monsieur Godin.

• (1600)

[*Translation*]

Mr. Yvon Godin: I would like some information, Mr. Chair. If we vote and the preamble is struck, may I move an amendment that we allow the last paragraph?

The Chair: No.

Mr. Yvon Godin: Because the entire preamble has been struck, we cannot—

[*English*]

The Chair: That's right, because the committee would have already rendered its judgment on the preamble, and it would not be not in order—

Mr. Yvon Godin: It's not the committee, but the government.

The Chair: —for a member of the committee to reintroduce a part of that preamble.

Mr. Tyrone Benskin: If we were proposing an amendment to retain lines 11 through to the end of “Her Majesty...”—to retain that, rather than to strike the....

The Chair: The proper wording of an amendment of that nature would be to strike lines 1 through 10 inclusive.

Mr. Tyrone Benskin: Okay.

The Chair: We cannot negative the preamble and then allow a motion to put back some part of that preamble that has been struck.

I hope I'm clear about what we're doing here.

Mr. Yvon Godin: I have a suggestion. When this passes, we ask the government to send a letter to every citizen to tell them what it's all about.

Some hon. members: Oh, oh!

Mr. Yvon Godin: They do it with EI, so they could do it with this.

The Chair: Is there any further debate on the preamble, or are there any potential amendments to the preamble?

Shall the preamble carry? I will pass the floor to the clerk for a recorded division.

(Preamble negatived [*See Minutes of Proceedings*])

The Chair: Shall the title carry?

(Title agreed to: yeas 11; nays 0)

The Chair: Shall the bill as amended carry?

(Bill C-419 as amended agreed to: yeas 11; nays 0)

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed. [*See Minutes of Proceedings*]

The Chair: Finally, shall the committee order a reprint of the bill, since it has been amended, for the use of the House at report stage?

Some hon. members: Agreed. [*See Minutes of Proceedings*]

The Chair: I want to thank members for their participation in this clause-by-clause examination.

We'll now take a brief suspension to allow members of the public to leave the room while we prepare to go in camera for consideration of our work plan and witness list for the French immersion study.

[*Proceedings continue in camera*]

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