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• (0900)

[Translation]

The Chair (Mr. René Arseneault (Madawaska—Restigouche, Lib.)): I call the meeting to order.

Welcome to meeting number 51 of the House of Commons Standing Committee on Official Languages. Pursuant to the order of reference adopted on Monday, May 30, 2022, the committee is resuming its examination of Bill C-13, an act to amend the Official Languages Act, to enact the use of French in federally regulated private businesses act and to make related amendments to other acts.

Pursuant to our routine motion, I want to let the committee members know that all the necessary connection tests were done before the meeting. Some issues were detected, and that's why we are getting started a bit late. I want to inform members participating remotely that I will not recognize them if they are not wearing the prescribed headset.

Today, we are resuming clause-by-clause consideration of Bill C-13.

Welcome to the officials joining us today to support the committee and answer our technical questions.

From the Department of Canadian Heritage, we have Julie Boyer, Marcel Fallu and Chantal Terrien.

From the Department of Citizenship and Immigration, we have Alain Desruisseaux.

From the Department of Justice, we have Warren J. Newman.

Lastly, from the Treasury Board Secretariat, we have Carsten Quell.

Thank you again for being here to share your wise counsel from time to time.

We are picking up clause-by-clause consideration where we left off at the end of Tuesday's meeting, clause 21. We are on CPC-21.

Over to you, Mr. Godin.

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): Thank you, Mr. Chair.

Some amendments provoke more of a reaction than others, but I don't think CPC-21 will cause too much wrangling within the Liberals.

To make it easy for everyone to understand, I will explain the amendment as clearly as possible, as you asked us to do at the last meeting.

The Chair: Just before you move your amendment, Mr. Godin, I want to point out that, if the amendment is adopted, BQ-24, BQ-25 and BQ-27 cannot be moved because of a line conflict.

Please carry on.

Mr. Joël Godin: Through CPC-21, at point (a), I am proposing that Bill C-13, in clause 21, be amended by replacing lines 3 and 4 on page 11 with the following:

41 (1) The Government of Canada shall

(a) enhance and protect the vitality of the English and French

At point (b) of CPC-21, I am proposing that clause 21 be amended by replacing line 6 on page 11 with the following:

port and assist their development, taking into

At point (c) of CPC-21, I am proposing that clause 21 be amended by replacing line 9 on page 11 with the following:

(b) foster the full recognition and use of both En-

At point (d) of CPC-21, I am proposing that clause 21 be amended by replacing lines 13 and 14 on page 11 with the following:

due to the predominant use of English, shall protect and promote the French language.

I would just like to add, Mr. Chair, that this amendment merely corrects language in the bill to make it easier to understand. All it does is tidy up the syntax, as far as I'm concerned.

The Chair: Go ahead, Mr. Beaulieu.

Mr. Mario Beaulieu (La Pointe-de-l'Île, BQ): As mentioned, this amendment would render several Bloc Québécois amendments out of order, so I'd like to move a subamendment. I've sent it to the clerk.

The Chair: All right.

Did you provide a hard copy or send it by email?

Mr. Mario Beaulieu: I sent it by email.

The Chair: Very good.

We'll suspend briefly to give everyone a chance to read Mr. Beaulieu's subamendment.

• (0900) _____ (Pause) _____

• (0905)

The Chair: Did everyone have an opportunity to review Mr. Beaulieu's subamendment to CPC-21?

Go ahead, Mr. Beaulieu.

Mr. Mario Beaulieu: Basically, what matters—and this was already mentioned in the white book—is the intention to protect French in Quebec as well.

Proposed subsection 41(1) begins “The Government of Canada is committed to (a) enhancing the vitality of the English and French linguistic minority communities in Canada”. After that, I propose adding “, as well as of francophones in Quebec”.

Then, at lines 9 to 10 on page 11, after “fostering the full recognition and use of both English and French in Canadian society”, I propose adding “while taking into account the fact that French is the official and common language of Quebec.”

I am proposing those two additions.

I want to be clear about the definition of “English linguistic minority communities” being used, so I have a question for the witnesses. My understanding is that the definition is based on the first official language spoken criterion.

Would you mind confirming how exactly you define the term “English linguistic minority communities”?

Mrs. Chantal Terrien (Manager, Modernization of the Official Languages Act, Department of Canadian Heritage): Thank you for your question.

Currently, the Official Languages Act does not set out a definition, strictly speaking.

Mr. Mario Beaulieu: I see.

It's not in the act. However, the material from the Department of Canadian Heritage refers to the criterion of the first official language spoken.

Isn't that right?

Mrs. Chantal Terrien: The act does not include a definition, but there are certainly several definitions. From a statistics standpoint, one of the definitions takes into account the first official language spoken.

Mr. Mario Beaulieu: I see.

According to Statistics Canada, the first official language spoken criterion includes 33% of immigrants to Quebec, so a third of immigrants. Using that definition rules out the possibility of ensuring the future French. That means the rate of language transfer to French must be 90% in order to maintain the demographic weight of francophones in Quebec.

Thank you.

The Chair: Thank you, Mr. Beaulieu.

Are there any questions about Mr. Beaulieu's subamendment to CPC-21?

Go ahead, Mr. Godin.

Mr. Joël Godin: This is for the department officials, Mr. Fallu specifically, because as I understand it, he is the one who drafted the bill.

I have a question about the spirit behind the definition of a linguistic minority. We just heard from Ms. Terrien, but the answer wasn't clear to me. There seem to be a number of definitions.

Can you help us understand this?

Since a linguistic minority community is not defined in the act, which definition do you most often use? When you're working with these data, which definition do you actually use?

Mr. Marcel Fallu (Manager, Modernization of the Official Languages Act, Department of Canadian Heritage): You're giving me way too much credit.

Mr. Joël Godin: Perhaps my sources are misinformed.

Mr. Marcel Fallu: As my colleague mentioned, there is no official definition in the act. For administration purposes, various definitions are used. The preamble to the Official Languages Act—I'm talking about the current version, so prior to the amending clauses that have been adopted so far—refers to English and French linguistic minority communities as integral parts of Canada's two official language communities, in other words, English and French.

It's implicit that the English linguistic minority community is in Quebec and that the French linguistic minority community is outside Quebec. The act doesn't say so in black and white, but that's basically how it works.

Mr. Joël Godin: As a lawmaker, I would like to be clear on the definition.

I understand your explanation, but it's a bit loose. When a term isn't clearly defined, it leaves room for interpretation and grey areas.

Can you confirm or deny what I'm saying?

Mr. Marcel Fallu: I have no opinion on the matter.

Mr. Joël Godin: Very well.

• (0910)

Mr. Warren Newman (Senior General Counsel, Constitutional, Administrative and International Law Section, Public Law and Legislative Services Sector, Department of Justice): I can provide some clarification.

When the terms English and French linguistic minority communities were used in the 1988 version of the Official Languages Act, which the committee is in the process of amending, they were based in part on section 23 of the Canadian Charter of Rights and Freedoms. Specifically, subsection 23(3) of the charter refers to “the English or French linguistic minority population of a province”.

Obviously, that can vary, because sometimes the target population for services is not rights holders, strictly speaking, under section 23, but what is meant by the English or French linguistic minority population of a province is well understood. It's not necessary to further clarify what those concepts refer to, because they are rooted in our daily reality in Canada.

Mr. Mario Beaulieu: Does section 23 refer to—

The Chair: Just a minute, Mr. Beaulieu.

Go ahead, Mr. Godin.

Mr. Joël Godin: You work at the Department of Justice, Mr. Newman, so the definition is perfectly clear in your head, with no room for interpretation.

What the Canadian Heritage officials are saying is quite different, though. As far as I can tell, the two departments have two different views on the matter.

From where you're standing, it's clear and well-defined, and there isn't room for interpretation.

Do I have that right?

Mr. Warren Newman: I wouldn't say that we have two different views on the matter. Rather, I would say that the use of the terms in the 1988 version of the act was deliberate, keeping in mind that the Canadian Charter of Rights and Freedoms already referred to the English or French linguistic minority population of a province.

Mr. Joël Godin: I see.

Thank you.

The Chair: Go ahead, Mr. Beaulieu.

Mr. Mario Beaulieu: Does section 23 use a criterion? It seems to me that the section refers to the mother tongue.

Mr. Warren Newman: Yes, it uses a number of criteria. Paragraph 23(1)(a) refers to the mother tongue or first language. That isn't in force in Quebec, as you know. That applies to rights under section 23, minority language educational rights.

The concept of English and French linguistic minority communities was used to add something that wasn't in the 1969 version of the Official Languages Act, so the first version. It referred only to English and French, not to linguistic minority communities.

In this case, the legislative drafters used the terminology to take into account the principle of protecting minorities.

The Chair: Thank you, Mr. Newman.

Go ahead, Mr. Godin.

Mr. Joël Godin: I'm not opposed to the honourable member's subamendment, but I think it's repetitive, since it appears elsewhere in the act.

As a Quebecker and a defender of the French language in Quebec and across Canada, I will support Mr. Beaulieu's subamendment, out of solidarity.

The Chair: Do we have any other comments on Mr. Beaulieu's subamendment to CPC-21?

Seeing none, I will call the vote on the subamendment.

(Subamendment negated: nays 6; yeas 5)

The Chair: We are back on the main amendment, CPC-21.

Are there any other comments on the amendment?

Seeing none, I will call the vote on CPC-21.

(Amendment negated: nays 6; yeas 5)

The Chair: That brings us to BQ-24, being moved by Mr. Beaulieu.

Mr. Mario Beaulieu: I'm not going to move it.

The Chair: Thank you, Mr. Beaulieu.

• (0915)

Mr. Mario Beaulieu: I won't be moving BQ-25 or BQ-26 either, in order to move things along more quickly.

The Chair: I will repeat that for the benefit of those following the proceedings.

BQ-24, BQ-25 and BQ-26 are not being moved.

That brings us to CPC-22, being moved by Mr. Godin. It's on page 67 of the amendments package.

Go ahead, Mr. Godin.

Mr. Joël Godin: I'd like to finish updating my pile of documents, if I may, Mr. Chair.

The purpose of CPC-22 is grammatical. It seeks to strengthen proposed subsection 41(2). As per your instructions, Mr. Chair, I will read it clearly.

I am proposing that Bill C-13, in clause 21, be amended by replacing line 11 on page 11 with the following:

(2) The Government of Canada, recognizing and taking into account that French.

The point of this addition is just to give the provision more teeth, but not baby teeth, as I've said in the past. I want to make sure that the provision is effective. All that's being added is "and taking into account".

Baby teeth are not forever teeth.

Thank you, Mr. Chair.

The Chair: Your metaphor is quite clear.

Are there any other comments on CPC-22?

Seeing none, I will now call the vote on CPC-22.

(Amendment agreed to: yeas 11; nays 0)

The Chair: That brings us to BQ-27, being moved by Mr. Beaulieu.

Over to you, Mr. Beaulieu.

Mr. Mario Beaulieu: I'm not going to move BQ-27, BQ-28 or BQ-29.

The Chair: BQ-27, BQ-28 and BQ-29 in the amendments package are not being moved.

That brings us to NDP-5, which Ms. Ashton is moving. It's on page 72.

The floor is yours, Ms. Ashton.

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Thank you, Mr. Chair.

I am moving that Bill C-13, in clause 21, be amended by replacing line 16 on page 11 with the following:

ing formal, non-formal and informal opportunities for members of English and French lin-

I want to begin by thanking the Réseau pour le développement de l'alphabétisme et des compétences, or RESDAC, and its president, Mona Audet, for the organization's participation in the committee's study.

RESDAC clearly showed the importance of two things: recognizing the education continuum, from early childhood to high school, and the availability of this education in French in official language minority communities.

Beyond formal learning, we need to make room for continuing education and literacy. We need to make room for education that doesn't always lead to a diploma or certification but is nonetheless crucial to the fabric of our society.

As we prepare to enshrine a robust francophone immigration program in law, I think we need to ensure that the federal government supports programs, learning and organizations that promote cross-cultural sharing between newcomers and those who are already here.

Even today, we face significant challenges. More than half the francophone population has trouble communicating and understanding what it's reading. It suffers from linguistic insecurity. Someone who struggles to communicate in their language will have an incredibly difficult time contributing to the vitality of their community and could end up becoming yet another francophone who has been assimilated. I would add to that the postpandemic landscape, the labour shortage, the looming threat of recession and the impact of technology.

Francophones in minority communities also need skills tailored to their circumstances, so they can face this postpandemic reality. The proposed amendment to clause 21 is especially relevant because adding the language "formal, non-formal and informal" would open the door to a much more holistic approach to learning. It would help establish a new paradigm, a new way for formal educational institutions and players in the non-formal and informal learning world to work together more effectively.

Once again, I want to thank Ms. Audet from RESDAC and all those working in the informal learning sector for their hard work. They showed us clearly that this is the way forward.

● (0920)

The Chair: Thank you, Ms. Ashton.

Over to you, Mr. Godin.

Mr. Joël Godin: Mr. Chair, I completely agree with Ms. Ashton, and I support the NDP's amendment.

The committee heard the excellent arguments put forward by RESDAC. I think it is incumbent upon us to incorporate this aspect into the act, so it is stronger going forward.

The Chair: Go ahead, Mr. Beaulieu.

Mr. Mario Beaulieu: I, too, support the amendment because it can be of benefit to francophones in Quebec. There are also people who struggle with literacy in Quebec.

Can I assume it will apply?

The Chair: As chair of the committee, I can't answer that.

Mr. Mario Beaulieu: I'll ask the department officials, then, whether they think the amendment would also apply to francophones in Quebec.

Mr. Marcel Fallu: That's not what the current commitment says.

Nevertheless, it may be possible under other elements of part VII as amended by Bill C-13, and even in the current version. It would be a programming decision.

The Chair: Since no one else wishes to comment, I will call the vote on NDP amendment 5.

(Amendment agreed to: yeas 11; nays 0)

The Chair: That brings us to CPC-24, which is on page 73 of the amendments package.

Over to you, Mr. Godin.

Mr. Joël Godin: Thank you, Mr. Chair.

This amendment might seem unimportant, but it's significant. Back in 2019 or 2020, I believe, the Standing Committee on Official Languages got into a bit of a battle with the industry minister at the time, Mr. Bains, and the chief statistician of Canada. All the committee members, including those in the governing Liberal party, who unfortunately aren't here this morning, raised an uproar and banded together to ensure that the long- and short-form censuses enumerated rights holders.

If we want to improve the Official Languages Act, this amendment is crucially important, because it would ensure that the true situation of linguistic minority communities was captured so that they could receive adequate services. Adopting this amendment would show that the government was serious about taking action.

We are modernizing the Official Languages Act, so it's important to keep in mind that it was first drafted back in 1969 and, then, amended in the 1980s. We want to make progress, so I hope no one proposes a word like "estimate", which would be a setback. We need to work earnestly. This amendment demands that we consider it carefully for the sake of all linguistic minority communities. Otherwise, we are just wasting our time. Unfortunately, I'm getting a bit fired up, but I hope you can hear the passion in my voice.

The bill states that the federal government “is committed to contributing periodically to an estimate of the number of children” of rights holders. That is still a way to avoid truly addressing the needs of linguistic minority communities on the ground. Members need to think seriously before voting against the amendment. The necessity of the amendment couldn't be more obvious, so we need to proceed accordingly. I am reaching out to every voting member of the committee and asking them to move forward, not backward, to look to the future and to truly achieve our goals.

Personally, I have three goals: stopping the decline of French, protecting both official languages, and promoting both official languages. However, we need specific data to do that work—not estimates. This amendment will prove how serious we are about achieving results.

● (0925)

The Chair: Thank you, Mr. Godin.

Go ahead, Ms. Ashton.

Ms. Niki Ashton: I don't need the floor anymore, Mr. Chair.

The Chair: Over to you, Mr. Serré.

Mr. Marc Serré (Nickel Belt, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Godin, for proposing this amendment. Obviously, we all agree on this. I don't want to draw out the discussion, but we want to build on the work that was done in 2021. There is no doubt about that.

I simply have a subamendment, which was already sent out to everyone by email. I'll hand it out to the committee members now.

I move that the amendment, proposing to amend clause 21 of Bill C-13 by replacing lines 20 and 21 on page 11, be amended by

(a) substitution after the words “Government of Canada” with the following: “periodically estimates, using the necessary tools, the number of”, so that the text reads:

“(4) The Government of Canada periodically estimates, using the necessary tools, the number of”.

The purpose of the amendment is to build on the work that was done in 2021. All the committee members have worked very hard in the past to demand that rights holders be enumerated.

We can take a break, if need be, but if anyone has questions, we can carry on.

The Chair: Thank you, Mr. Serré.

Go ahead, Ms. Ashton.

Ms. Niki Ashton: I have a question for the experts about Mr. Serré's subamendment.

First off, I want to say that we, in the NDP, are in favour of ensuring that the questions being put to Canadian households on this subject are clear. We mustn't underestimate how important the short-form census is, so the very important work that the census does needs to capture that. I think we have unanimous agreement on that.

The way the proposed subamendment is worded, would it allow for clear responses regarding the number of rights holders' chil-

dren? Would it make sure that Statistics Canada puts those questions to all Canadians?

The Chair: Ms. Boyer, you have the floor.

Ms. Julie Boyer (Assistant Deputy Minister, Official Languages, Heritage and Regions, Department of Canadian Heritage): Thank you for your question.

We understand the proposed subamendment to mean that the government is going to contribute to an estimate of the number of eligible children. The word “estimate” is used because the census can provide something close to the exact number, but it only represents one moment in time. Therefore, we use “estimate” because it's possible to confirm the exact number of children using the lists provided by school boards, for example.

So the answer to your question, Ms. Ashton, is yes.

● (0930)

The Chair: Thank you, Ms. Boyer.

Mr. Généreux, you were on the list. You have the floor.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you, Mr. Chair.

Ms. Boyer, when the subamendment specifies “with whatever tools may be necessary”, do you understand the same thing I do, that there may be other tools than the census?

Ms. Julie Boyer: The census is the primary tool the federal government would rely on to estimate the number of eligible children, but other provincially held tools are needed to come up with a more accurate estimate.

In particular, I used the example of lists provided by school boards, which would really help confirm the number of children. When you're looking at a census conducted two years ago, other children may have been added since then. Those lists could therefore be used to confirm the number of children.

Mr. Bernard Généreux: I don't see what you have just referred to as tools. That is data gathered by the provinces, in this case the school boards. They are not tools, so to speak, but data.

I just want to make sure that the act specifies what tools may be necessary. You understand the intent of Mr. Serré's proposed amendment, right?

Besides the census, which is done every four years now, what tools does the government have to determine the exact number of children in Canada?

Ms. Julie Boyer: The remaining tools would fall under provincial and territorial jurisdiction in the area of education.

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

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Mr. Chair.

Ms. Boyer, you are precisely talking about tools under provincial jurisdiction. Will the amendment require school boards to provide them?

If the school boards say they will not provide the data, the federal government can't get it because school boards are under provincial jurisdiction. Even as an MP, sometimes you have to ask a school board for permission to talk to students. It's fine when you're friends with the principal, but if not, you get locked out.

So imagine if you asked the school board for lists of students! I have done it before because I wanted to send a congratulatory letter for graduation. Some school boards agreed to provide me with the lists, but others turned me down because it's at their discretion.

How are you going to estimate the number of francophone or anglophone children in a province if you run into the same issue we are currently experiencing? In no way does Bill C-13 require school boards to provide lists. Therefore, the resulting estimate could be inaccurate.

Ms. Julie Boyer: Thank you very much for your question.

When the government commits to something, it must be able to meet that commitment. The bill states that the Government of Canada commits to providing an estimate periodically, but it will need whatever tools are necessary to do that.

You asked if the school boards could be required to provide that data. The answer is no, because the school boards are under provincial and territorial jurisdiction. Therefore, the federal government cannot encroach on that jurisdiction and require provincially regulated school boards to provide any records.

Mr. Jacques Gourde: Thank you, Ms. Boyer.

Ms. Julie Boyer: Perhaps my colleague could complete my answer.

Mr. Jacques Gourde: I'm sure your answer is correct.

Therefore, those lists can't be considered a valid tool, because the likelihood of them being made available to us is virtually nil.

• (0935)

Mrs. Chantal Terrien: I'd like to make a clarification, if I may, Mr. Chair.

The Chair: Go ahead, Mrs. Terrien.

Mrs. Chantal Terrien: It's important to remember that the Statistics Act sets out the mandate of Statistics Canada and gives broad powers to the chief statistician to obtain data from other entities. In addition to conducting the census, Statistics Canada also conducts post-census surveys.

The Chair: Thank you, Mrs. Terrien.

Mr. Lehoux, you now have the floor.

Mr. Richard Lehoux (Beauce, CPC): Thank you, Mr. Chair.

I have some issues with the subamendment because it talks about periodic estimates, but the amendment specifies that "the Government of Canada is committed to periodically cause to be counted the number of children...". Ms. Boyer just said the federal government is committed to making an estimate.

To me, there's a huge difference. What's important to me is that someone commits to periodically making the count happen. We should be able to call a spade a spade.

The Chair: Thank you, Mr. Lehoux.

Mr. Drouin, you have the floor.

Mr. Francis Drouin (Glengarry—Prescott—Russell, Lib.): I have a few questions.

In principle, the short-form census, which includes the entire rights holder question, is sent out to Canadians every five years, right?

Mrs. Chantal Terrien: Yes, it's every five years.

Mr. Francis Drouin: The Parliamentary Secretary to the Minister of Immigration, Refugees and Citizenship is right beside me and confirming that, for the first time in 20 years, the Government of Canada has met its target for francophone immigration outside Quebec, which is 4.4%.

The government could continue to meet this target for 50 years. That would mean making a low estimate of the number of francophones in our communities outside Quebec because we would rely on a single tool, the census, which is conducted every five years. It would lead to fewer services for francophones across Canada, or fewer services for the anglophone community in Quebec.

However, we do have other tools, such as school board waiting lists, that can tell us how many students want to enrol in schools. They could be used as another tool to determine the demand in French or English schools in Quebec. That's what we're talking about right now. However, it must be clearly understood that the federal government can't force the provinces' hand on this.

The Chair: Thank you, Mr. Drouin.

Mr. Serré, you have the floor.

Mr. Marc Serré: Thank you, Mr. Chair.

I would like to continue in the same vein as Mr. Drouin.

I understand the interventions, but I want to try to clarify Mr. Gourde's comment. I was a school trustee for six years. All French-language school boards have an interest in providing this data and want to do so. It has nothing to do with the federal government.

We talk about the federal government's commitment and the fact that it has no power over the provinces, and I understand that some parties want to mix up these notions because of provincial jurisdictions. However, Ms. Boyer, if we leave provincial jurisdiction aside, would it be in the best interest of French-language school boards to send data to the federal government on a regular basis?

I think the subamendment reflects that, and I think we're saying the same thing, but I'd just like to get that clarification.

The Chair: You have the floor, Ms. Boyer.

Ms. Julie Boyer: Thank you for the question.

That is why the amendment proposes to add a reference to other necessary tools, which could contribute to a more accurate estimate of the number of rights holders, for example, between census periods.

The Chair: Thank you, Ms. Boyer.

You have the floor, Mr. Généreux.

Mr. Bernard Généreux: Ms. Terrien and Ms. Boyer, I'm going to phrase the question differently.

You can understand the aim of my colleagues Mr. Serré and Mr. Godin. We are trying to create an ideal or perfect legislation, to improve it as much as possible.

Could the subamendment and the amendment that the committee is currently studying be worded differently or better to improve Bill C-13 even further?

• (0940)

Mrs. Chantal Terrien: Thank you for the question.

First of all, I would like to say that I cannot comment, because I do not have an opinion on your remark or your question.

That said, as Ms. Boyer and my colleagues have mentioned, we must remember that we are talking about a commitment. The rights holders we are talking about are in the area of education, an area of provincial and territorial jurisdiction.

Although the federal government does have some tools, such as the census and others that have been mentioned, it does not control all the parameters, because education is a provincial jurisdiction.

Since we're talking about a commitment here, I would also like to remind you that clause 4 of Bill C-13, which the committee has already adopted, requires the Minister of Canadian Heritage to implement that very commitment.

The Chair: Just so everyone understands, are you referring to clause 4 on page 11 of Bill C-13?

Mrs. Chantal Terrien: I am talking about clause 4 on page 4 of Bill C-13.

The Chair: Okay.

Mrs. Chantal Terrien: The federal government's duty is outlined in what would be the new section 2.3 of the act.

Mr. Joël Godin: Is it possible to show us where it is in the bill? I can't find that section.

The Chair: Ms. Terrien, could you repeat the connection you are making between Mr. Serré's subamendment and the clause you are referring to on page 4 of Bill C-13?

Mrs. Chantal Terrien: The connection I'm making is that the subamendment and the amendment we're talking about are related to one of the commitments in part VII of the Official Languages Act, which allows the government to act, yes, but always in cooperation with the provinces and territories.

In this case, I refer you to the new section 2.3 that clause 4 of Bill C-13 would add to the Official Languages Act to require the Minister of Canadian Heritage to establish a process for the federal government to implement the commitment set out in the new sub-

section 41(4) of the act proposed in the bill. The latter subsection, which is the subject of the amendment we are currently studying, would be found in part VII of the act.

Mr. Joël Godin: Mr. Chair, I am amazed that they are trying to convince us that the word "estimate" is stronger than the word "enumeration".

For the purposes of discussion, I will read both definitions. According to Google, the word "estimate" means the action of estimating, of determining the value or price that one attributes to something. As for the word "enumeration", it is the action of counting, of drawing up an inventory, of taking a census—the enumeration of fortunes in a country, for example. In Canada, things are not going well in this regard, because the government has run up large deficits, but that's another story.

Personally, I find it hard to understand that officials are trying to convince us that school boards can send us lists, that it is to their advantage to do so, that we can rely on them and that we will shape our approach around the benefits the school boards get from sharing them. That is what I heard earlier from my colleague Mr. Serré. In my opinion, a federal act must provide the necessary tools to be as independent as possible.

Ms. Boyer, you said earlier that the chief statistician had a lot of power. If he were not obliged to request data from elsewhere and if he could carry out this enumeration himself on a regular basis, it would be a tool.

However, the act does not say that the census is the only thing. It provides that the federal government has a duty to do an enumeration. I know that the departments have the jurisdiction to do so. You will find the tools to do the enumeration. So stop trying to sell us the idea that "estimate" is a stronger word than "enumeration": in my opinion, and with all due respect to the public service, it is not logical.

This week, I spoke with representatives of the Fédération nationale des conseils scolaires francophones, who reminded me of the importance of enumeration. We're talking about lists and the benefits that school boards would get from sharing them. However, even the latter say that this is not enough and that it must be enshrined in the act. The Fédération des communautés francophones et acadienne has also requested that it be.

So I do not understand why the Liberal Party is introducing a subamendment to weaken the act and do a disservice to minorities across Canada. Is this an indication of the dissension that exists within this party, as we have seen in the news over the past few days and weeks?

This morning, the member for Sackville—Preston—Chezzetcook—

• (0945)

Mr. Francis Drouin: On a point of order, Mr. Chair.

The Chair: Hold on, Mr. Godin.

Mr. Francis Drouin: I have a lot of respect for my honourable colleague, but we are currently debating the amendments. If he wants to make comments about our party, I invite him to join in. His comments are not related to the amendments.

The Chair: You are right, Mr. Drouin.

Mr. Godin, I would ask you to stick to the subamendment.

Mr. Joël Godin: Mr. Chair, I take note of the comment made by my colleague, for whom I have a great deal of respect. We get along much better on international policy issues than we do on domestic ones, but that's another story. What I am raising is part of the debate, however, because it shows that our party is questioning the intentions of this government.

I want to say one thing to reinforce my point about enumeration. Between 1982 and 2001, the census greatly underestimated the number of children eligible for French-language schools outside Quebec and did not count any children eligible for English-language schools in that province. It should be remembered that the censuses during this period collected only part of the data and only made estimates, extrapolating from the figures.

I'll give you another fact. Statistics Canada has added questions in the 2021 census to enumerate—not estimate—the children eligible for official language minority education in 100% of the population.

Why this objection, this resistance to a proposal to give us the tools to serve minorities well in their communities? I don't understand it. It is a tool, and we want to improve the tools: how can we be against this principle? My colleague's subamendment weakens my amendment and would weaken the act.

Again, I reach out to my colleagues and ask them to think before accepting this subamendment. We need to leave my amendment intact so that, once royal assent is received, we can begin to enumerate the children of the rights holders more accurately. It will still be in the realm of statistics, Mr. Chair, but it will be more accurate than a simple estimate, as the figures have shown us in the past.

We cannot base our approach on the intention of a school board, a school service centre or a municipality to provide us with a list. We have no control over such data sources. Let us use the tools we have at our disposal. I am convinced that, if this is not enough, federal officials will be able to find tools to properly enumerate the rights holders.

I think that the census is the key. However, I am not talking about a census in my amendment. I am talking about tools that will allow us to draw the most accurate picture possible. These people deserve our attention and financial support.

We have not talked about impacts, but there are some. If there are fewer people, there is less money. If there is less money, there are fewer services. If there are fewer services, there is less training. If there is less training, the decline of French continues, throughout Canada. It is therefore important that we think before voting on this subamendment.

As I said earlier, a colleague with whom I have the privilege of working on other issues is not here this morning. He is always present on Friday mornings, but not this morning. I don't understand why, but—

● (0950)

The Chair: Let's focus on the subamendment.

Mr. Joël Godin: No, Mr. Chair. This guy fought with you and me at the Standing Committee on Official Languages, so it's very relevant that I mention that the member for Sackville-Preston-Chezzetcook is absent. I won't call him by his name.

The Chair: Thank you, Mr. Godin.

Mr. Gourde, the floor is yours.

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

I will come back to the question of costs, which my colleague Mr. Godin raised. While the government is committed to using all possible tools to obtain the information needed to deliver the services, this comes at a cost. Even if an estimate were made by Statistics Canada based on the information provided by the provinces, with no guarantee that they would want to provide it, it would be too late. The school boards would be too late in providing this data and Statistics Canada would be too late in releasing its statistics. It would be too late to provide the necessary French-language services in French-language schools in anglophone provinces and English-language services in anglophone communities in Quebec.

If there is a political will to use all the necessary tools, children will have to be enumerated practically at birth, because budgets take time to prepare. At the rate things are going here, children aged 0 to 5 have time to get to university before pre-school services are provided. That is the reality. We must not rely on any provincial tool. We have everything we need at the federal level.

If we are able to send a cheque to every family with a one-month-old child, we should be able to find out whether the parents intend to send the child to a French- or an English-language school. This would not infringe on any provincial jurisdiction. That may be the tool we need. It would give us a number to forecast. Based on the number of births in 2024, for example, we would have an idea of the number of children who would need French-language school services in 2029. We would know this at least five years in advance.

However, if we rely solely on tools and estimates, these children will be in university before we know whether they would have preferred to go to school in English or in French, or whether they were not even able to make that choice, because the French-language schools in the other provinces were full, which is already the case.

So we can't make estimates, because of the costs involved. If the government is committed to using all the tools, it is committed to finding the right number. If there is enough will, we can absolutely do it. However, if we want to tread water, let's leave things vague, and they will remain vague for another 50 years.

● (0955)

The Chair: Thank you, Mr. Gourde.

Ms. Ashton, you have the floor.

Ms. Niki Ashton: I recognize that great concerns have been raised today about the future of francophone communities in this country. Recognizing that this information is essential, I want to know if the question about children of rights holders is going to remain in the short-form census.

The Chair: Ms. Boyer, you have the floor.

Ms. Julie Boyer: Thank you, Mr. Chair.

This is probably a question that should be asked of Statistics Canada.

That said, there seems to be some confusion about the terms used in part VII of the Official Languages Act. So I'd like to clarify the distinction between the terms "commitment" and "duty", if I may.

The Chair: Yes, go ahead, Ms. Boyer.

Ms. Julie Boyer: In the bill, the proposed wording for part VII of the Official Languages Act begins with a series of commitments. These cover four areas: protection and promotion of French; learning in the minority language; section 23 of the Canadian Charter of Rights and Freedoms; enhancement of the vitality of minorities, and promotion of English and French. This shows the federal government's intention to commit to this, but it does not have all the necessary levers, since several of these areas fall under provincial and territorial jurisdiction.

Immediately thereafter, the wording proposed in the bill sets out duties. In this case, the federal government has full control of the levers and can compel the implementation of positive measures.

Mr. Godin's amendment proposes to turn a commitment into a duty in a sphere where the federal government does not control all the levers.

There would be a duty here for the federal government to carry out an enumeration. I will come back to the difference between an enumeration and an estimate later. In any case, in order to fulfil what would now be a duty, we would have to acquire the necessary tools. Otherwise, we would not be able to carry out this duty. For the federal government to do this properly, it would need other tools that fall under provincial and territorial jurisdiction.

The purpose of the subamendment is to deal with the fact that the federal government does not have all the necessary levers. According to the wording proposed by the subamendment, the federal government would periodically make an estimate using the necessary tools.

There is therefore a difference between a duty and a commitment. If we do not have all the necessary levers at our disposal, we are talking about a commitment. If we want to transform the commitment into a duty, we must recognize that certain tools are missing to fulfil this duty, and we must name them. This is what the subamendment aims to do.

I will now explain the difference between an enumeration and an estimate.

If we are talking about an estimate, then we are talking about the census, which takes place every five years. It is an estimate because, as I explained, the number will continue to increase in 2023,

and then again in 2024, and so on until the next census. It is an estimate, because the numbers are not fixed in time and can increase.

The Chair: Ms. Boyer, on the census, let me add a clarification for the people who are here.

There is the long- and the short-form census. The short-form census is not an estimate. If a census is conducted using the short-form questionnaire, it is no longer an estimate.

Mrs. Marie-France Lalonde (Orléans, Lib.): It's just once every five years.

The Chair: Yes, I understand that it's every five years.

Ms. Julie Boyer: It doesn't happen every year.

In short, enumerating means counting. If we really want to count rights-holders, then we need to be able to use other tools that fall under the jurisdiction of the provinces and territories.

Ultimately, this comes down to a terminological choice between the verb "enumerate" and the verb "estimate". If we are talking about coming up with an estimate, then only the federal government can do that. We would be using a snapshot. If we choose the term "enumerate", then we really need to go through the provinces to get the exact numbers on an ad hoc basis because they are the ones who have access to the list of school boards, for example.

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

Mr. Joël Godin: Thank you, Mr. Chair.

Ms. Boyer, I do not really understand your comment.

You are saying that the amendment we proposed gives rise to an obligation. As it now stands, the bill clearly states "is committed to". The amendment that I proposed uses the same term. There is already an obligation there. It is not my amendment that is creating an obligation.

What I am saying is that we should do a count rather than just estimating. I do not want members imputing motives to me that I do not have. I think it is important to clarify what the official from Canadian Heritage said. My amendment does not create an additional obligation. It simply sets out a method, that of doing a count, which I think is better than estimating.

In that regard, I would like to read an excerpt from a report of the Standing Committee on Official Languages, which was chaired by the hon. Denis Paradis at the time, on the enumeration of rights-holders. My colleague, Mr. Généreux, signed that report. Based on what was said earlier, we, in our role as legislator, likely made some mistakes and worded some things wrong. I will read the excerpt in question and then I will ask Ms. Boyer to tell us what she understands from it. It says, and I quote:

Nevertheless, witnesses were adamant that the short-form census questionnaire, which is sent out to 100% of the population, is the only format possible for enumerating rights-holders properly.

Mr. Chair, this relates to the comment you made earlier about the short- and long-form census. The entire population is being counted.

Ms. Boyer and hon. committee members, I am not the one saying this. It is written in a report that members wrote at the time, which was validated by the clerks and analysts and is part of Canada's history books.

I think that it is important to set the record straight, and that is what I just did. I have a lot of other things I would like to say, but I do not want to filibuster.

• (1000)

The Chair: Mr. Généreux, the floor is yours.

Mr. Bernard Généreux: Mr. Chair, that committee adopted a report to provide direction. You will recall that the entire committee fought for enumeration in the census.

As my colleague just said, we are not imposing an additional obligation. This is simply a matter of terminology because words are very important. If my colleagues were listening to me, they will understand what I am saying. I completely agree with Mr. Godin. We cannot water this down.

The necessary tools exist. The reality is that if we do not impose the obligation to enumerate rights-holders in the Official Languages Act and we continue to rely on estimates, then all official language minority communities will pay the price. We need to be consistent with what was done in the past. We have a historic opportunity here that will not come around again for another five, 10, 15 or 20 years. We really need to use the right words in the right places.

As my colleague Mr. Lehoux said earlier, we need to call a spade a spade. What we need to do is enumerate the rights-holders, not just estimate how many there are. There is a fundamental difference between those two words, and my colleagues need to understand the importance of that. We cannot water this down. All together, in committee, we ensured that there would be an enumeration in the census. Incidentally, 100% of the population is required to complete the short-form census.

In that regard, I completely agree with Mr. Godin. Everyone needs to think this through before we vote on it.

The Chair: Is there any further discussion on Mr. Serré's sub-amendment?

Seeing none, I'll call for the vote.

(Amendment as amended agreed to: yeas 6; nays 5)

• (1005)

The Chair: That brings us back to amendment CPC-24 as amended.

Is there any further discussion before I call the vote?

Mr. Godin, you have the floor.

Mr. Joël Godin: Mr. Chair, I would like the meeting to be suspended for a moment because I need to consult the clerk.

The Chair: Okay. I will suspend the meeting for a few minutes.

• (1005)

(Pause)

• (1005)

The Chair: We are resuming the meeting.

We are now discussing amendment CPC-24, as amended.

If there is no further debate, I will call the vote.

The clerk has the floor.

The Clerk of the Committee (Ms. Michelle Legault): Okay. Let's begin.

Mr. Serré—

Mr. Joël Godin: I would like to say something, Mr. Chair.

Mr. Marc Serré: We've started the vote.

The Chair: Yes, we've started the vote already, Mr. Godin.

Mr. Joël Godin: I want to talk to you, Mr. Chair and hear your thoughts.

I know that the clerk has started the vote on amendment CPC-24, but I would like you to see if there is unanimous consent for me to withdraw my amendment.

The Chair: The vote has already begun.

The only way to proceed is to get unanimous consent, Mr. Godin. The committee can do anything as long as there is unanimous consent.

Is there unanimous consent by the committee to withdraw amendment CPC-24?

• (1010)

Mr. Marc Serré: No.

The Chair: We already started voting on amendment CPC-24, but we will start again to avoid any confusion.

(Amendment as amended agreed to: yeas 6; nays 5. [See *Minutes of Proceedings*])

The Chair: That brings us to amendment BQ-30.

Mr. Mario Beaulieu: I will not present this amendment or amendment BQ-31.

The Chair: Amendments BQ-30 and BQ-31, which are found on pages 75 and 76 of our amendments package will therefore not be presented.

We will now move on to amendment CPC-26.

Before I give the floor to Mr. Godin, I want to say that, if amendment CPC-26 is adopted, then amendments LIB-14, LIB-15 and NDP-6 cannot be moved because they pertain to the same lines of the bill.

Mr. Godin, you have the floor.

Mr. Joël Godin: Thank you, Mr. Chair.

In my opinion, this is another very important amendment. After hearing from many witnesses, including representatives of the Fédération des communautés francophones et acadienne du Canada, I think that using the word “les” instead of “des” in French makes all the difference. There is only one letter that is different, but the word “des” is vaguer than the word “les”.

I will read the amendment and then I will present my arguments to try to convince my colleagues to adopt it.

Amendment CPC-26 proposes that Bill C-13, in Clause 21, be amended by replacing lines 30 to 32 on page 11 with the following:

the positive measures necessary for the implementation of the commitments under—

In other words, in addition to the change that I just explained, the amendment seeks to replace the words “that it considers appropriate” to “necessary” in reference to positive measures.

I will summarize.

A ruling was handed down in May 2018 after the Fédération des francophones de la Colombie-Britannique, or FFCB, was forced to fight in court for services to be offered in French and for investments to be made in the francophone community. It talked about employment centres, among other things. I think that everyone is familiar with this case and its outcome. If I remember correctly, the judge ruled in favour of the FFCB based on the distinction between the words “les” and “des” in French. It was the case of FFCB v. Employment and Social Development Canada.

Then, there was Bill C-32, which was well done.

The government then appealed the Federal Court's decision. You will understand that it is rather odd for the federal government to take an organization that defends minorities to court.

In reference to federal institutions, Bill C-13 indicates “that the positive measures that it considers appropriate are taken”. I have heard that people want to replace the word “les” with “des” in French but we will see what happens later in committee. It is important to leave in the word “les” in French and to remove the phrase “that it considers appropriate” so that the number of rights-holders can be enumerated rather than estimated. That is the debate we just had in committee.

If we adopt amendment CPC-26, it would strengthen the bill. I think that the goal of all members here is to properly support both official languages. If, in the near future, anyone argues in favour of replacing the word “les” with the word “des” in French, it will take us back even further than Bill C-32.

Amendment CPC-26 is vital to show respect for what we are doing here, for the FFCB and for the FCFA, which brings together nearly 200 organizations that represent francophone minorities outside Quebec. Even though this amendment may seem trivial because it is so short, it is vital. It seeks to do two things: to leave in the word “les” rather than changing it to another word like “des” in the French version of the bill and to remove the words “that it considers appropriate”.

• (1015)

I presented my arguments, as did my colleagues, on eliminating the idea of consideration.

I will stop there, Mr. Chair. I think it is very important that we adopt this amendment.

The Chair: Thank you, Mr. Godin.

Mr. Drouin, you have the floor.

Mr. Francis Drouin: Thank you very much, Mr. Chair.

I want to thank my colleague for proposing this amendment.

I do not believe the amendment has the effect of replacing the word “des” with the word “les”, which is already part of the bill. However, it does make a change by adding the word “necessary”. On that point, I would like to ask the officials here a question.

There was talk the last time about the effect of including the word “necessary”, so that the wording would be “necessary positive measures”. I want to be clear that it does not say “necessary positive measures”, it says “positive measures”. That is already in the bill. The amendment aims to add the word “necessary”.

In your opinion, what effect would adding the word “necessary” have?

Ms. Julie Boyer: Thank you very much for the question.

The amendment targets the beginning of the proposed wording in the bill, which reflects the obligations that would be set out in part VII of the Official Languages Act. There is indeed an obligation. The words “positive measures” remain as they are. The wording proposed in Bill C-13 reflects the case law, and that is also reflected in the amendment. What is new, however, is the word “necessary”. The question here is who decides what measures are necessary. Should the department determine or judge whether a given positive measure is necessary, or should the stakeholders determine and demonstrate that?

Here, the word “necessary” could have a limiting effect on the measures that would be taken. There is indeed a judgment call in determining whether an action is necessary. Is it necessary for the stakeholders or necessary for the department? The department might feel that it is not necessary. Stakeholders would then have to demonstrate why it is necessary. Therefore, it could have an unintended limiting effect.

The language found in Bill C-13, that is, “that it considers appropriate”, gives the department the option to impose them. Thus, the burden of proof does not apply, in this case.

Mr. Fallu could probably provide more details.

Mr. Marcel Fallu: The obligation to take positive measures was introduced into part VII of the Official Languages Act in 2005, through Bill S-3.

I won't repeat everything that stakeholders have argued before this committee, but let's just say that over the years, a number of criticisms have been made about implementation. The jurisprudence has also evolved. The latest decision on this issue is the Federal Court of Appeal's ruling in the case between the FFCB and ES-DC.

The wording "measures that it considers appropriate" found in Bill C-13 and the current wording used in subsection 41(2) of the act have the same meaning, although the words are slightly different. In essence, it is still a binding obligation on federal institutions.

As Ms. Boyer mentioned, adding the word "necessary" could introduce a bit of a filter. That is probably not what was intended, but we think that this language could create a ceiling, or a requirement to demonstrate why something is necessary. In contrast, the language found in the current act and the language found in Bill C-13 gives federal institutions the flexibility to decide the best means.

• (1020)

The Chair: Are there any other questions?

Mr. Godin, you have the floor.

Mr. Joël Godin: Mr. Chair, my question is for Ms. Boyer.

You said that the proposed wording in amendment CPC-26 leaves it up to the agencies to judge whether a measure is necessary. Can you please explain the difference between the wording? In the bill, it is a matter of interpretation when it says that federal institutions have the duty to "ensure that positive measures that it considers appropriate are taken". Agencies will still make their case to officials. The wording "necessary positive measures" implies the same thing with respect to officials. They are still the ones who will decide whether or not a measure is necessary. Whether the wording is "positive measures that it considers appropriate" or "necessary positive measures", it is a question of interpretation in both cases. There is no push back or elements that will obstruct the work of public officials.

Can you explain how the word "necessary" is more restrictive than the words "that it considers appropriate"? I, for one, do not understand your reasoning.

Ms. Julie Boyer: I would ask Mr. Newman from the Department of Justice to explain the distinction between the two terms more clearly.

Mr. Warren Newman: Thank you.

There is a margin of discretion when implementing positive measures. The phrase "that it considers appropriate" gives some discretion to federal institutions, which are still in control of the design and delivery of their own programs and services. This phrase gives them some leeway in implementing this commitment and obligations.

That said, Bill C-13 sets forth a series of positive measures and guidelines that add more. These guidelines are very helpful and are consistent with the Federal Court of Appeal decision that was mentioned. In particular, the measures must be concrete and be taken with the intention of having a positive effect, while respecting the needs to protect and promote. I don't need to read out all of these provisions, but that is quite considerable.

When you look at how part VII has evolved since 1988, the federal government has gone well beyond the original commitment, which was a solemn commitment, but was not intended to create obligations. Now, the obligations are there and they must be implemented. Having said that, there still needs to be some discretion or leeway for federal institutions to implement these measures "that it considers appropriate". That is the wording we prefer to use.

The Chair: Mr. Godin.

Mr. Joël Godin: In fact, Mr. Newman, you just ended your remarks by saying that you prefer to use the phrase "that it considers appropriate". I understand that is a preference, but you have not convinced me that the concept of "necessary positive measures" will be binding in its application in the day-to-day lives of public servants.

Mr. Warren Newman: The word "necessary" imposes a high standard. It also raises some debate about what is necessary and what is not. On the other hand, the word "appropriate" leaves room for institutions to manoeuvre, to have the discretion to implement the commitment in spirit, without necessarily forcing them to the point where they have to justify the necessity of each measure.

Mr. Joël Godin: Mr. Newman, does your answer apply if the wording includes the verb "consider"?

• (1025)

Mr. Warren Newman: Are you referring to the debate from earlier?

Mr. Joël Godin: No.

You are saying that the word "necessary" is binding, entails obligations, is open to interpretation, and is discretionary. How is the word "necessary" defined? What is necessary for me may not necessarily be necessary for you and vice versa. The same is true for the verb "consider". When I consider, I do it in one way and you do it in another, so it's discretionary as well.

Of these two words, how can we say that one is stronger than the other?

Mr. Warren Newman: I assume you are proposing the word "necessary" because you feel it is more constrictive than the phrase "that it considers appropriate".

For us, necessity is a criterion that is going to lead to debate when it comes to determining whether or not the threshold of necessity is met. These institutions also need to maintain some measure of discretion. The current wording reflects this desire to maintain flexibility in the implementation of these obligations. We assume that institutions will act in good faith, consistent with part VII of the act and the new provisions.

Mr. Joël Godin: In fact, you are right, in the sense that the word "necessary" is, in our view, more binding, while not imposing limits and still leaving room for interpretation.

Our goal is to strengthen the approach so that federal institutions are even more responsive to positive measures. It makes no difference whether the measures are considered appropriate or necessary, but “necessary” is a bit stronger.

We are trying to provide semantic nuance.

The Chair: Thank you, Mr. Godin.

As there are no further interventions on this subject, we will call for a vote on amendment CPC-26.

(Amendment negated by a vote of 6 to 5.)

The Chair: This brings us to amendment LIB-14.

I would like to bring to the attention of the committee that if amendment LIB-14 passes, amendment LIB-15 on page 79 of the amendment bundle cannot be proposed because it is identical. Also, if LIB-14 is passed, amendment NDP-6, on page 80 of the amendment bundle, will not be able to be proposed, this time due to a line conflict.

Mr. Drouin, you have the floor.

Mr. Francis Drouin: Thank you very much, Mr. Chair.

I will follow your advice and simply read amendment LIB-14 in its entirety. It proposes that Bill C-13, in clause 21, be amended by replacing lines 30 to 32 on page 11 with the following:

the commitments under subsections (1) to (3) are implemented by the taking of positive measures.

I'm going to ask the officials, who have spent a lot of time with us during the last few meetings, to comment on this amendment in relation to the original text of the bill.

The Chair: Ms. Boyer, go ahead.

Ms. Julie Boyer: Thank you, Mr. Chair.

The current wording of the bill requires departments to ensure that the commitments under subsections (1) to (4) of section 41 of the act, as amended by Bill C-13, are implemented by the taking of positive measures.

This amendment would express the first obligation mentioned in part VII of the act more directly. While retaining the idea that it is a matter of several positive measures and not of one, the amendment would remove the discretion provided by the current wording of the bill, which we just discussed when considering amendment CPC-26. The amendment would thus remove a department's ability to judge that a measure is not appropriate or important.

By removing the possibility of such a value judgment, the amendment would require departments to put in place positive measures to meet the commitments under subsections (1) through (4) of section 41 of the act, as amended by the bill.

• (1030)

The Chair: Thank you, Ms. Boyer.

Is that okay with you, Mr. Drouin?

Mr. Francis Drouin: Yes, it is.

The Chair: Mr. Godin, go ahead.

Mr. Joël Godin: Mr. Chair, what I predicted has happened.

The French version of amendment LIB-14 proposes “que les engagements énoncés aux paragraphes (1) à (3) soient mis en œuvre par la prise de mesures positives”, instead of referring to “des mesures positives.”

In my view, a reference to all positive measures would demonstrate a greater obligation of result. As I understand it, the phrase “de mesures positives” would imply that some measures may be taken, but not all the measures. So the nuance is quite important here.

We're discussing one letter. So it's pretty specific, but as long as we're doing our job, let's do it right. I am not comfortable with the wording “de mesures”. We should use the wording “des mesures”, to include all the measures that the officials have identified. Currently, there is no commitment that all the measures that have been identified will be implemented, some of which may be left to the whim of officials or politicians who may decide that, even if there are 10 measures, they will only implement three and put the other seven in the drawer.

I would like to hear what Ms. Boyer and Mr. Newman have to say about this.

Ms. Julie Boyer: I thank the member for his question.

In my opinion, this reflects the current jurisprudence, as the proposed wording in the French version of amendment LIB-14 uses “de mesures positives” in the plural. The requirement that “de mesures positives” be taken therefore implies that “des mesures positives” will be taken.

I will now turn to my colleague at the Department of Justice for confirmation that this does reflect the most recent jurisprudence.

The Chair: Thank you, Ms. Boyer.

Mr. Newman, go ahead.

Mr. Warren Newman: That is also the way I understand it. As I said earlier, the idea is to adopt a series of provisions that are consistent with the Federal Court of Appeal ruling that was mentioned. Obviously, the latter had to deal with the text as it was written.

The French version of this amendment proposes to delete the phrase “qu'elles estiment indiquées” to simply emphasize the fact that the institutions will take the measures. So we can conclude that these would be the necessary measures, which is consistent with “les mesures positives qu'elles estiment indiquées”, if you will.

As Ms. Boyer was explaining, I think the proposed wording is going to encompass the range of relevant measures, without constraining the institutions to the point where they lose flexibility in implementing this commitment and these obligations.

The Chair: Thank you.

Mr. Godin, go ahead.

Mr. Joël Godin: Mr. Chair, the wording of the new subsection 41(5) of the Official Languages Act proposed in clause 21 of the government's Bill C-13 requires “that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3).” We will not revisit the debate surrounding the phrase “it considers appropriate”.

However, this same government is now proposing an amendment that would, in my opinion, water down or soften Bill C-13 by suggesting, in the French version, “la prise de mesures positives”. The word “les” is eliminated from line 29 of the French version of the bill to include the word “de”, which has the same meaning as “des”.

I'll return to my example from earlier. Assuming the existence of 10 positive measures, LIB-14 would allow for the application of only one, or three, four, five, or all 10. We don't know. The current wording of this bill would require federal institutions to implement all 10 measures. Why diminish and water down this bill?

• (1035)

The Chair: Is your question for someone in particular, Mr. Godin?

Mr. Joël Godin: We can ask Ms. Boyer or Mr. Newman to answer. If anyone else wants to answer, they are welcome to do so. Positive measures do not affect Mr. Quell, I believe.

Ms. Julie Boyer: In my opinion, this is not a lessening of commitment. It is clearly an obligation for the federal government. It seems to be a more direct way of saying that the government must take positive measures, in the plural.

Indeed, the exact number of positive measures to be taken is not prescribed. It is up to the Crown to decide on the investment and level of ambition, and it is up to the government to decide on the budget. That said, the wording does specify the obligation to take positive measures to implement these commitments.

Mr. Warren Newman: The sentence in new section 21(5) of the act proposed by clause 21 in the French version of Bill C-13 does not end after “mesures positives”, as there is no period. The current wording states “que soient prises les mesures positives qu'elles estiment indiquées pour mettre en œuvre les engagements énoncés aux paragraphes (1) à (3)”. Thus, it is a matter of appropriate, timely measures.

On the other hand, the English version is very strong.

[English]

Every federal institution has the duty to ensure that positive measures are taken for the implementation of the commitments

It seems to me that it's even stronger than saying “the positive measures that it considers appropriate are taken....”

There is also “the positive measures necessary for the implementation of the commitments under subsections (1) to (3) are taken.”

[Translation]

To me, that's pretty strong wording.

The Chair: Mr. Godin, before you ask another question, I want to inform you that, for all kinds of reasons, we have to end the meeting at 10:45 a.m. sharp. I will let you continue, but at 10:45 a.m., we are going to have to adjourn the meeting, even though we have not finished the discussion on amendment LIB-14.

The floor is yours.

Mr. Joël Godin: Ms. Boyer, you said earlier that you have an obligation to make a list of measures that involve spending. Does the amendment require you to disclose the list of all measures for us as legislators to decide?

Ms. Julie Boyer: No, the amendment doesn't do that.

Mr. Joël Godin: It's a loophole.

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

Mr. Marc Serré: I think Ms. Boyer has somewhat addressed Mr. Godin's concerns. The amendment does not detract from the bill as far as positive measures go.

Ms. Boyer, can you give us an example of regulations, in part VII, to show that the amendment does not detract from the bill?

Ms. Julie Boyer: Mr. Chair, I will let Mr. Fallu answer.

Mr. Marcel Fallu: Thank you.

Mr. Serré, you talk about regulations. Part VII has provided for regulatory authority since the act was strengthened in 2005. However, to date, that authority has not been exercised. So there are no regulations in place now, but the regulatory authority remains. It is moved to the new subsection 41(11) of the act proposed by Bill C-13, but it is essentially the same regulatory authority as is found in the current version of the act. The purpose of regulations for applying part VII would be to regulate how the obligations are to be met.

In addition, I would note that the new subsections 41(6) to 41(10) of the act proposed by Bill C-13 clarify the steps to be taken by federal institutions in relation to positive measures, to address potential implementation issues. All of this can also be further clarified through regulations, as well as through Treasury Board policy instruments. These instruments are a new feature of Bill C-13, as the current version of the act does not provide for this possibility in part VII.

So there are ways to be even more specific in providing guidance to federal institutions. However, as much as I would like us public servants to be the ones to vote on budgets, that is not the case.

• (1040)

The Chair: Thank you.

Mr. Beaulieu, the floor is yours.

Mr. Mario Beaulieu: I think we have been very reasonable. We want to move the debate along as quickly as possible and give us time to go over all the amendments. So far, we have gone over 20 clauses out of 71, and we have debated and voted on 44 amendments. We are up to page 78 of 229 in the amendment package.

In addition to the application of Bill 101 to federally regulated businesses in Quebec, clause 54 of Bill C-13 is important for francophones outside Quebec.

So I think it is very important to finish the debate and proceed as quickly as possible.

Mr. Marc Serré: I have a point of order, Mr. Chair. We are talking about amendment LIB-14.

The Chair: That's right.

Thank you for your comment, Mr. Beaulieu, but we really need to focus on amendment LIB-14.

Mr. Godin, you have the floor.

Mr. Joël Godin: Mr. Chair, I would like to move a subamendment. I think it's been distributed.

The Chair: I'm being told you had to move it first. It has just been sent to everyone.

Mr. Joël Godin: I will read it, but we won't have time to debate it, as I understand we will not be able to extend the meeting.

So I move that the amendment be amended by replacing the words "commitments under subsections (1) to (3) are implemented by the taking of positive measures." with the following:

positive measures are taken for the implementation of the commitments under subsections (1) to (3).

The Chair: I don't have it in front of me, but my understanding is that the proposed amendment would be inserted after the words "the commitments under subsections (1) to (3)".

Mr. Joël Godin: Actually, this is at line 30 on page 11 of the bill. Lines 30, 31 and 32 would be replaced with the words "positive measures are taken for the implementation of the commitments under subsections (1) to (3)".

I may have worded it wrong, but you know that we are in a hurry.

The Chair: Mr. Godin, I understand the idea of your subamendment, but as a matter of procedure, a subamendment that eliminates the whole substance of the amendment is inadmissible.

Mr. Joël Godin: No, I'm not eliminating everything, as my subamendment starts after the word "that".

The Chair: Exactly. All that remains is the word "that", so there is no substance.

Mr. Joël Godin: I've tried, Mr. Chair.

The Chair: I thank you for that, but we will leave it at this. So your subamendment is inadmissible.

Since there are no further comments, we will vote on amendment LIB-14.

(Amendment agreed to: yeas 6; nays 3)

• (1045)

The Chair: We will stop here for today.

The meeting is adjourned.

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