

*Official Languages Act*

[English]

**Mr. Dan McKenzie (Winnipeg—Assiniboine)** moved:

Motion No. 2

That Bill C-72 be amended in Clause 2 by striking out line 45 at page 2 and substituting the following therefor:

"institutions, wherever it is reasonable to do so in the circumstances in particular with respect to".

Motion No. 2A

That Bill C-72 be amended in Clause 2 by striking out lines 2 to 5 at page 3 and substituting the following therefor:

"administration of justice and in communicating with or providing services to the public;"

Motion No. 2B

That Bill C-72 be amended in Clause 2 by striking out lines 8 and 9 at page 3 and substituting the following therefor:

"ties and maintain the use of the English and French".

● (1600)

[Translation]

**Mr. Gauthier:** Mr. Speaker, I would first of all like to join all my colleagues in congratulating the Clerks of the House for spending a large part of their weekend studying, working and writing their recommendations on the 136 or so amendments that have been tabled.

During the Committee study, Mr. Speaker, Government Members proposed amending the purpose of the Bill and deleting from it some words that I consider very important. The purpose of my amendment is quite simply to restore the wording of the original Bill tabled in this House on June 25, 1987; that is, the purpose of the Act would read as follows:

The purpose of this Act is to extend the present laws of Canada relating to official languages to ensure respect for English and French as the official languages of Canada and ensure equality of status and equal rights and privileges as to their use in all federal institutions, in particular with respect to their use in parliamentary proceedings, in legislative and other instruments, . . .

And it goes on, Mr. Speaker.

The purpose of the Act, Mr. Speaker, is very important. In the debate in Committee, I said that it was perhaps the most important clause in the Bill because according to the preamble, it clearly establishes, both for Canadians and for those who will have to study and, more important, interpret this Act, that the purpose is part of it and is very useful in interpreting it. It adds no substantive rights, I admit. As I said in Committee it has symbolic value for me, but it is also extremely important because experience has shown that the purpose of the 1969 Act, Section 2, was used repeatedly by the courts for interpretation purposes, and we were told then that the purpose clause, as drafted in the 1969 Act was declaratory. It was an admirable declaration of intent, but the law had no teeth, no provisions for enforcement.

So I feel that the purpose of the act is to define and spell out the fact that the main objective of the exercise is to strengthen the Official Languages Act; not another act, but that one in particular. Let us be specific, let us say it plainly! To my mind, this is one way of emphasizing the importance of the Act. I also have a great deal of respect for the Interpretation Act. I am not a lawyer, Mr. Speaker, but I know that the Interpretation Act (Chap. I-23) also recognizes the importance of the purpose of an act. The text reads as follows:

"Every enactment shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects."

To understand clearly what the Act wants to accomplish or correct, we cannot ignore its purpose, hence its importance. Thus, the interpretation value of the purpose clause clarifies and may support the other provisions of an act. That is why I have tabled a single amendment, Mr. Speaker: this one. It is because I wanted, in the short time allotted to us, to put as much strength and passion into my arguments as I could, as I wanted to see the Government's own original idea put back into the Bill, and have it state clearly and lucidly, beyond the shadow of a doubt, that the purpose of the Act was indeed to strengthen federal legislation on official languages.

There is no doubt whatsoever as far as that is concerned. It is inherently important because it has repercussions on all of the other clauses of the Bill. For instance, if there were some interpretation problem with a given section, a judge could give it a broader reading if the Act contained a purpose that warranted it. That was the case with the purpose of the Official Languages Act before the Conservatives sabotaged it. The effect of such a clause is to prevent overly restrictive interpretations such as the one that was made in the "*Société des Acadiens du Nouveau-Brunswick*" decision, wherein the Supreme Court of Canada ruled that the right to use one of the two official languages before the courts did not include the right to be understood by those courts. In fact, Clause 16 of the Bill we have before us today corrects that flaw by clearly imposing on judges the obligation of understanding the language of the proceedings without the assistance of an interpreter. The purpose of the Act is, then, to strengthen the Official Languages Act.

Mr. Speaker, I have here before me an interpretation method, the grammatical method, the teleological method. I will not read it because I will run out of time, but I want to refer Members to the Interpretation Act of Canada where they will see how important it is that the purpose section of an Act be clear and precise, so that the judiciary and the people are given an absolutely unequivocal statement of the intent of the legislator.

The amendment I have just moved is not revolutionary. Quite the opposite! It simply repeats the wording the Government had in its Bill for almost a year, wording that was removed—as we all know—to please a small group of Conservative Members who did not like the English translation. I