

Bilingual judge bill bad precedent

MINDELLE JACOBS

You can often shrug off political correctness as a minor irritant. But sometimes it's not only goofy, it's a slippery slope into dangerous territory.

Such is Bill C-232, which would require Supreme Court of Canada justices to be bilingual. It has passed third reading in the House of Commons and is off to the Senate for what one can only hope is sober second thought and a good thrashing.

The bill, championed by New Brunswick NDP MP Yvon Godin, would require that our top justices understand English and French without the help of an interpreter.

Godin wants the impossible -- perfectly bilingual Supreme Court justices in a nation that is bilingual only in its dreams.

Ask yourself whether you want good judges or good linguists deliberating the country's most complex and significant legal issues. Because you can't always have both.

Retired Supreme Court justice John Major doesn't mince words criticizing Godin's private member's bill.

"The thing just makes no sense," says Major, now a consultant with the Bennett Jones law firm in Calgary. "If they want to sacrifice competency for linguistics, well, it's just a mistake.

"It's essential that we pick not the most gifted language people, but the most gifted lawyers (for the bench)," he emphasizes. "There are enough lawyers in the Liberal party sitting in Parliament who should know that."

In fact, every Liberal MP present for last week's vote did so in favour of Godin's bill.

All those Grit lawyer-MPs, like Bob Rae and Ujjal Dosanjh, should be ashamed of themselves.

"To think that you can get nine people fully bilingual -- you might find them but you're not going to find the most competent candidates," says Major.

If Godin's bill becomes law, it will dramatically shrink the pool of qualified candidates, especially from the West, and quite possibly make the Supreme Court worse, not better.

That's what happens when you try to make language more important than legal ability when determining eligibility to sit on the Supreme Court.

It's madness. But, after years of on-again, off-again language wars, perhaps we shouldn't be surprised.

Godin offers a bizarre kind of compromise. Supreme Court justices would have to be verbally competent in both official languages. Written expertise wouldn't be required.

But there's a vast difference between competence in basic conversational French and the ability to understand complex legal concepts in French, says Major.

Because of the intricacies of the law, he explains, unless a Supreme Court justice is fully bilingual, he or she will need a translator.

The upshot is that lots of bright lawyers will never become bilingual enough to sit on the Supreme Court if Godin has his way, says Major.

"You can't teach somebody 50 years (of age) and older anything more than basic conversational ability," he says.

"(Godin) is probably well-meaning and this is popular in his New Brunswick riding but if it passes, it's not going to be good news."

Godin doesn't fully understand how the Supreme Court works, adds Major. The justices have a good grasp of cases before they even get to court because they've read the entire file, including the judgments of the trial judge and the court of appeal.

"There's so much preparation," he says. "The time in court is of value but it's only one small piece of the puzzle."

MINDY.JACOBS@SUNMEDIA.CA