



CHAMBRE DES COMMUNES
HOUSE OF COMMONS
CANADA

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François Choquette

Député / Member of
Parliament
Drummond

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5.10

Ensuring access to justice in both of Canada's official languages

Bill C-203, An Act to amend the Supreme Court Act (understanding the official languages)

Dear Sir or Madam:

I am very proud to contact you to seek your support for my bill concerning the bilingualism of Canada's Supreme Court judges, which will come up for debate shortly.

The objective of Bill C-203, An Act to amend the Supreme Court Act (understanding the official languages) is to ensure citizens enjoy substantive equality regarding access to justice in both official languages. The bill would amend the *Supreme Court Act* by establishing a new requirement for judges appointed to the Supreme Court to understand French and English without the assistance of an interpreter.

The Supreme Court of Canada is currently the only federal court whose judges are not required to understand the people appearing before them or their counsel without resorting to an intermediary. This situation is an issue given that all citizens have the basic right to express themselves in the official language of their choice.

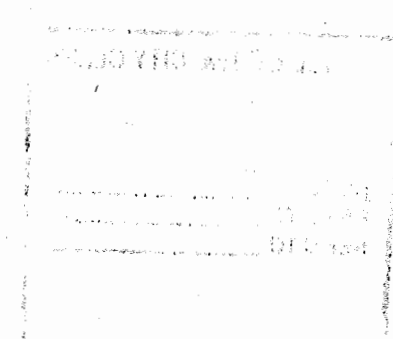
The Supreme Court of Canada is the final court of appeal for all Canadian jurisdictions. As we prepare to celebrate Canada's 150th anniversary, we must work together to enhance the vitality of official language minority communities. The passage of my bill on the bilingualism of judges would be a significant milestone in ensuring access to justice in both official languages.

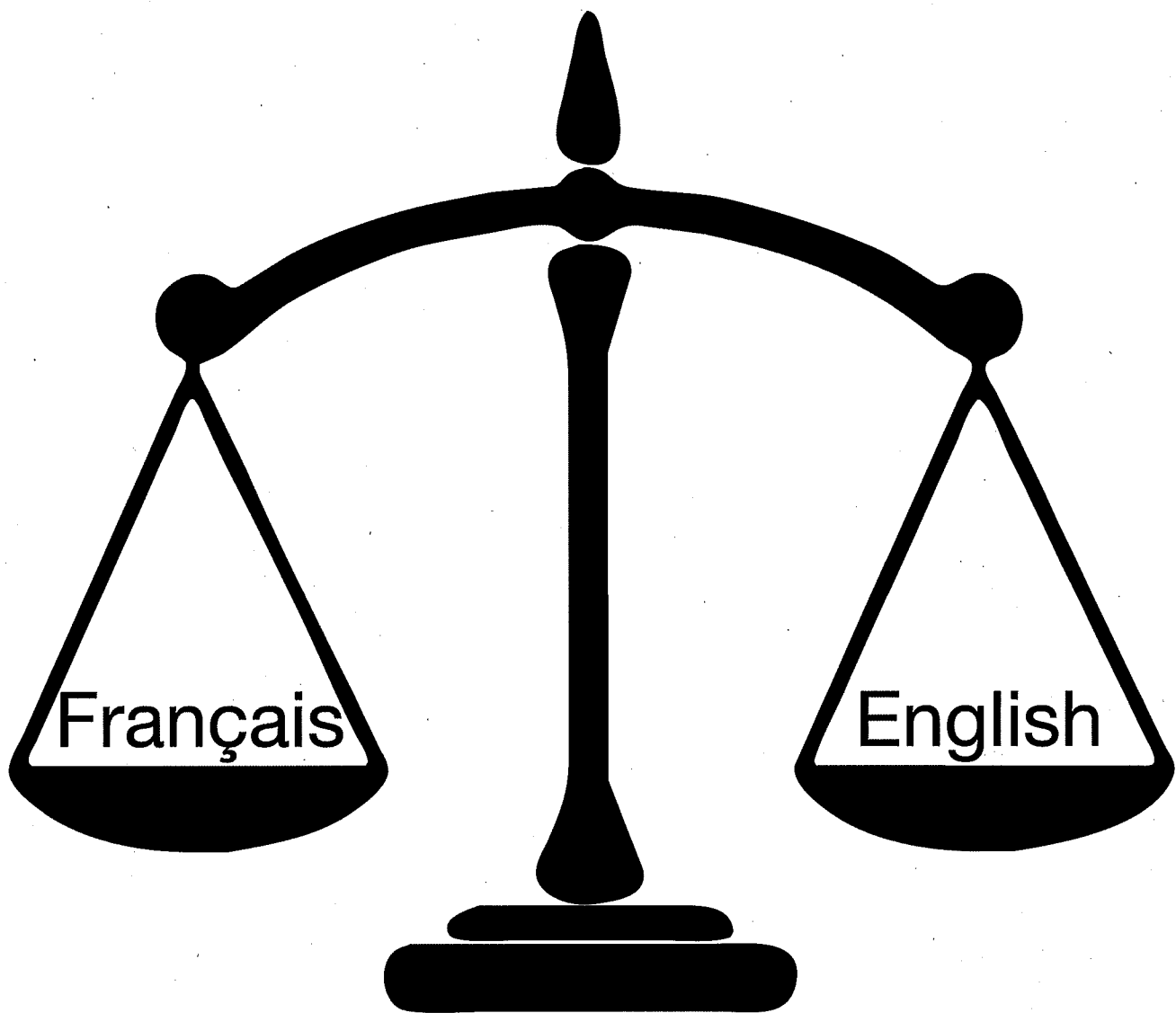
That is why I am asking you to pass a resolution in support of Bill C-203 and to notify your local Member of Parliament.

Sincerely,

François Choquette

François Choquette
Member of Parliament (Drummond)
Official Languages Critic
New Democratic Party





C-203

An Act to amend the Supreme Court Act
(understanding the official languages)

Loi modifiant la Loi sur la Cour suprême
(compréhension des langues officielles)



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May, 16 2016

Subject: C-203 An Act to Amend the Supreme Court Act (Understanding the Official Languages)

Dear Colleagues,

I am writing to ask your support for my private members bill, C-203, which will amend section five of the Supreme Court Act. The proposed amendment intends to promote further equality within the justice system by requiring all Supreme Court judges to understand both official languages without the aid of an interpreter.

As the final and highest tribunal available to present a case in the country, it is integral that all citizens have equal access regardless of which official language they speak. Prime Minister, Justin Trudeau, agrees that ensuring the judges can understand the arguments being presented in either language will gain public confidence in the justice system. Presently, the judges are not even required to take a proficiency exam on their language competency. The Supreme Court exists so that it may serve the people which it cannot properly achieve should the judges not be able to understand both languages being spoken.

This bill also seeks to promote further equality between our two official languages: French and English. Since the law equating the two languages' conception, the Supreme Court has recognized the constitutionality of their equivalence through their approval of measures demonstrating such. By requiring the judges to understand both official languages, it would be another step towards ensuring true equality between French and English.

If you have any further comments or questions, please do not hesitate to contact me at Francois.Choquette.a1@parl.gc.ca.

Sincerely,

François Choquette

François Choquette
MP for Drummond
Official Languages Critic
New Democratic Party (NDP)

C-203

First Session, Forty-second Parliament,
64 Elizabeth II, 2015

HOUSE OF COMMONS OF CANADA

BILL C-203

An Act to amend the Supreme Court Act (understanding the
official languages)

FIRST READING, DECEMBER 9, 2015

MR. CHOQUETTE

C-203

Première session, quarante-deuxième législature,
64 Elizabeth II, 2015

CHAMBRE DES COMMUNES DU CANADA

PROJET DE LOI C-203

Loi modifiant la Loi sur la Cour suprême (compréhension des
langues officielles)

PREMIÈRE LECTURE LE 9 DÉCEMBRE 2015

M. CHOQUETTE

SUMMARY

This enactment amends the *Supreme Court Act* and introduces a new requirement for judges appointed to the Supreme Court to understand French and English without the assistance of an interpreter.

SOMMAIRE

Le texte modifie la *Loi sur la Cour suprême* et crée une nouvelle condition de nomination des juges de la Cour suprême selon laquelle ceux-ci doivent comprendre le français et l'anglais sans l'aide d'un interprète.

HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-203

PROJET DE LOI C-203

An Act to amend the Supreme Court Act
(understanding the official languages)

Loi modifiant la Loi sur la Cour suprême
(compréhension des langues officielles)

R.S., c. S-26

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

Sa Majesté, sur l'avis et avec le consentement
du Sénat et de la Chambre des communes du
Canada, édicte :

L.R., ch. S-26

**1. Section 5 of the *Supreme Court Act* is
renumbered as subsection 5(1) and is
amended by adding the following:**

**1. L'article 5 de la *Loi sur la Cour suprême*
5 devient le paragraphe 5(1) et est modifié par
adjonction de ce qui suit :**

Condition

(2) In addition, any person referred to in
subsection (1) who understands French and
English without the assistance of an interpreter
may be appointed a judge.

(2) En outre, les juges sont choisis parmi les
personnes visées au paragraphe (1) qui com-
prennent le français et l'anglais sans l'aide d'un
interprète.

Condition de
nomination

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Petition to the House of Commons
Bilingualism of Supreme Court of Canada Judges

We, the undersigned **citizens of Canada**, draw the attention of the House of Commons to the following:

THAT, since English and French have equal status in Canada, the government should respect the fundamental right of Canadians to have access to justice in the official language of their choice.

THEREFORE, your petitioners call upon the **Government of Canada** to pass legislation in Parliament that would make it mandatory to appoint bilingual judges to the Supreme Court of Canada.

Name	Email Address	Street Address (<i>province/territory and postal code</i>)	Signature

Please return the signed petition to François Choquette, MP for Drummond, 150 Marchand Street, Suite 100, Drummondville, Quebec J2C 4N1.

Frequently Asked Questions

1. What does the bill want to change?

Bill C-203 amends the *Supreme Court Act* and introduces a new requirement for judges appointed to the Supreme Court to understand French and English.

This bill strengthens the foundations and unity of the country, since it improves access to justice in both official languages.

2. What is the spirit of this bill?

Promoting equal access to justice in both official languages: the Supreme Court is the highest court in the land, and all of its judges are required to hear cases. Their decisions can have serious consequences for the parties involved. Unilingual judges have to call upon third parties to be able to understand oral submissions and written representations. However, simultaneous interpretation and translation have their limits.

Judges' ability to understand the official languages fosters the equality of French speakers and English speakers, and guarantees access to the Canadian justice system in both official languages.

3. Why is it important for Supreme Court judges to be bilingual?

Canada's laws are not written in one language and then translated. They are co-drafted in both official languages, and neither language takes precedence over the other. This means the body of Canadian legislation exists independently in both official languages.

It is therefore essential for Supreme Court judges to understand legislation as it stands, in its duality, so they can apply it in its entirety, without infringing on the rights of the litigants.

4. How is bilingualism defined in this bill?

It means understanding French and English without the assistance of an interpreter.

5. Why is a law needed when the Supreme Court already has a translation and interpretation service?

The Supreme Court exists to serve Canadians, whether their first official language spoken is French or English.

All citizens have the right to express themselves and be heard and understood in the Supreme Court in their language of choice (English or French).

The judge should be able to understand the message without a filter.

6. Will the current judges who are not bilingual have to learn the other language?

The bill does not require former judges to be bilingual.

However, it is possible for current judges to become bilingual. A language training program is offered by the Office of the Commissioner for Federal Judicial Affairs to meet the needs of judges, whether for learning the second language or maintaining and improving their language skills. See this link: <http://www.fja-cmf.gc.ca/training-formation/index-eng.html>.

There is also an applied training program offered by the Canadian Council of Chief Judges of provincial courts.

7. Who supports a law on the bilingualism of Supreme Court judges?

The bill has the support of all official languages experts and stakeholders, such as:

- the Commissioner of Official Languages
- the Barreau du Québec
- the Fédération des communautés francophones et acadienne (FCFA)
- the Fédération des associations de juristes d'expression française de common law inc. (FAJEF)
- Serge Rousselle, Professor, Faculty of Law, University of Moncton, specialist in language rights and former President of the Association des juristes d'expression française du N.-B.
- Michel Doucet, Professor, Faculty of Law, University of Moncton, specialist in language rights
- Sébastien Grammond, Dean, Civil Law Section, Faculty of Law, University of Ottawa
- Claude Provencher, former Commissioner for Federal Judicial Affairs and director general of the Barreau du Québec;
- Jean-Marc Fournier, Quebec minister responsible for Canadian Relations

8. Is our pool of bilingual judges big enough to meet the new requirement of this bill?

Yes. Grammond and Power note that the pool of bilingual appeal court judges is sufficient for appointments to the Supreme Court. Prior to the appointment of Justice Moldaver, the second unilingual judge appointed by the Conservatives (the other unilingual judge being Rothstein), Grammond and Power noted that

“Over the last two decades, there has been only one of the nine members of the Supreme Court who was unilingual. Thus, it has been possible to find a good number of bilingual judges.”

Furthermore, in the document “Should Supreme Court Judges be Required to be Bilingual?”, Sébastien Grammond and Mark Power clearly establish that 25% of appeal court judges are bilingual.

9. Is this a new bill?

No.

The NDP has been championing this bill since 2008.

- 2008: Bill C-559 (introduced in June 2008) died on the Order Paper because of the October 2008 election.
- 2010: Bill C-232 passed third reading (the Liberals and the Bloc voted for the bill). It died on the Order Paper when the federal election was called.
- 2014: the Conservative-majority House of Commons voted against Bill C-208. The Liberals and the Bloc voted for the bill.
- 2016: MP Choquette introduced the bill once again.

10. Do we have to change the constitution to approve this bill?

No.

People may be confused on account of the Nadon ruling.

Sébastien Grammond, professor of law at the University of Ottawa, considers that a constitutional amendment for a requirement that appointed judges be bilingual is not necessary. He says that the court's decision in the Nadon case mainly had to do with Quebec's guaranteed representation on the Supreme Court under the Constitution. He regards the issue of judges' bilingualism as a separate subject, adding that, if there are any constitutional doubts, the government should seek the opinion of the Supreme Court.

Such initiatives are a matter for government.