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The Honourable Larry Bagnell

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● (1915)

[*English*]

The Chair (Hon. Larry Bagnell (Yukon, Lib.)): Good evening. Welcome to the 104th meeting of the Standing Committee on Procedure and House Affairs as we continue our study on the use of indigenous languages in proceedings of the House of Commons.

We are pleased to be joined by Michael Tatham, Clerk of the Legislative Assembly of the Northern Territory of Australia. He is appearing by video conference from Darwin, Australia, where it is early tomorrow morning.

Let me just remind committee members that tomorrow we have a meeting at the regular time. The first hour is on indigenous languages. The second hour is on committee business. You probably don't have that notice yet.

Thank you for making yourself available and changing the time. We got stuck with a whole bunch of votes. I'm sure you understand that.

If you could make an opening statement, that would be great.

Mr. Michael Tatham (Clerk of the Legislative Assembly, Legislative Assembly of the Northern Territory): Thank you, Mr. Chair.

I will give you a brief outline of our jurisdiction and the matters around languages and use of language.

The Northern Territory is a large land mass on the Australian continent, with about 18% of the land mass, but only 1% of the Australian population lives in the Northern Territory. However, 30% of those people are aboriginal people, and the aboriginal interpreter service estimates that 60% of aboriginal people in the Northern Territory speak an aboriginal language at home or in their community on a daily basis.

The aboriginal languages in the Northern Territory are very diverse. There are estimated to be well over 100 different languages and dialects spoken every day in the Northern Territory that are aboriginal languages, in communities right across the Northern Territory.

In the Legislative Assembly of the Northern Territory we have had aboriginal members since the assembly's inception in 1974. We've always had at least one aboriginal member. At the moment, in our 13th assembly, we have six members with aboriginal heritage, and some of those members speak an aboriginal language as their first language.

One of the facts around representation in the Northern Territory in our assembly is the lack of continuity and cohesion with regard to the languages spoken as first languages by members from assembly to assembly. For example, in our 12th assembly, from 2012 to 2016, we had a number of members who spoke as their first language different aboriginal languages from those of members in our 13th assembly, the existing assembly. In the last assembly we had a speaker of Laragiya as her first language. She also spoke another language called Warlpiri. Another member spoke Warlpiri as her first language. That diversity of language led to some interesting conflict, which I will get onto in a little bit, about what happened with regard to our standing orders being changed and the use of aboriginal languages or languages other than English in our assembly.

Our situation here is probably similar in some ways to that in many parts of Canada, in terms of our having large land masses with small populations, particularly when you get to the Northern Territory. As I have said, the diversity of language is a huge challenge for us in our Parliament when it comes to trying to accommodate language or doing outreach work or communicating how Parliament works to people who use only their traditional language or do not speak English as well as we would hope they would if they are to understand what's going on in our Parliament.

In the past, we have made some efforts around communicating in some aboriginal languages what goes on in our Parliament through our committee system, but not for a number of years. The last time the assembly did outreach work through its committee system in aboriginal languages was 2011, when the assembly spent some considerable time and money on prioritizing 17 aboriginal languages and providing interpreters and outreach about how governance and the assembly works to communities in a concerted effort during that year, 2011.

In the existing assembly, the 13th assembly, we have a member who has made it clear in the assembly that English is not his first language. He speaks a language called Yolngu Matha, which is a language from the East Arnhem Land region of the Northern Territory. He communicates in Parliament in English, but he does so in a slow and sometimes stilted fashion, and he admits quite openly that he finds it sometimes quite challenging to communicate in English in the Northern Territory Assembly.

● (1920)

As a consequence of that, in 2017, he sought to amend our standing orders to have an interpreter on the floor with him, so that he could communicate in his own language and the interpreter would translate it for him into English.

The assembly didn't agree with the proposal, and his proposed standing order was not even referred to the standing orders committee at the time. It was amended in debate, and the matter didn't go any further. However, the standing orders committee did consider the use of standing order 23A.

Standing order 23A was introduced into our assembly in 2016 as a consequence of a debate that had occurred late in 2015 where a member was interjecting in the Warlpiri language. A debate was happening about an education matter. A member was constantly interjecting. A point of order was raised, and when the point of order was raised, the member switched to the Warlpiri language, and another member who also spoke the Warlpiri language accused that member of speaking in unparliamentary terms and saying offensive words in the Warlpiri language.

This brought the Speaker into a difficult situation because of course she does not speak the Warlpiri language, and a whole question arose about whether the words were offensive or not.

The Speaker then made a ruling and said, “No matter what the words were, in debate you shouldn't be interjecting. Therefore, the interjection itself was out of order, so please don't interject.” This became quite a hot political issue, with the member who had interjected saying that her first language had been suppressed and that she should have the right to speak in her first language.

In the legislative assembly we had always had a procedure where a member could speak in their language at any time with the leave of the assembly, and the leave of the assembly had never been denied.

The problem, of course, with that was that if a member spoke in their language, there was no interpretation, no translation of that, and the member would be relied upon to then either say those same words again in English or to provide a written translation for incorporation into the Hansard. That was the process that had been available for members for 40 years before this controversy occurred in late 2015 and early 2016.

Then the member for Stuart at the time, who was the member who had interjected in the Warlpiri language, moved a motion before the standing orders committee to include a new standing order that would allow a member as a right to speak in any language other than English, provided that after they spoke in that language they would provide an oral and/or a written translation of what they had said.

At the standing orders committee meetings the committee deliberated on that, and the report that was reported back to the assembly in April 2016 stated that a member could speak in any language other than English so long as they spoke in English first, and then spoke in the other language, so that moved around to the idea of when you would provide your translation. That became the standing order.

In 2017, the member for Nhulunbuy, who is the gentleman I was talking about previously and is a speaker of the Yolngu Matha language, moved an amendment for that to be switched back around, so that you could provide the translation after you spoke in your aboriginal language or whatever language you wanted to speak in. That was not agreed to. The assembly has, in its wisdom, decided to maintain a watching brief and has requested any member who wants to make a submission to the standing orders committee to do so at any time up until the end of 2018 on the matter of speaking in a language other than English.

There's quite a bit of politics around what occurred. Here in the Northern Territory, 2016 was an election year, and there was a lot of politics around the use of language and whether people were oppressing other people and suppressing the use of their language.

● (1925)

Things have calmed down a bit on that front; however, it's still a matter of some engagement for the member for Nhulunbuy, because he and his staff have said that he is being prevented from communicating fully and participating fully in the proceedings of the legislative assembly for as long as he does not have access to a translation service in the assembly. The assembly hasn't gone any further on that.

All of the Australian parliaments that we surveyed permit speaking in a language other than English by leave only; there's no interpreter or translation service available as a matter of right.

Of course, the situation is very different in New Zealand, and we understand from looking at Nunavut that it's very different there as well, where there are official languages. Australia doesn't actually have an official language in a constitution or a document such as that. The immigration department maintains that English is the language of Australia, but it's not in any official constitutional document or embedded in anything like that.

The difficulty, I think, that the members of the assembly have always said is that there's no homogeneity here, whereas when you go to New Zealand there are different dialects but there is one Maori language. If you're a Maori person, you can speak and understand, mainly, the different dialects of the Maori language, whereas in Australia, with the huge diversity of language groups, there's always a concern about how we would, for example, in the Northern Territory, provide services for the top 17 languages, which was what was being considered when we were doing some committee work.

That gives you a bit of an idea of where we sit here. We have a standing order. The standing order sticks out a bit as the only one we know of in the Australian context that provides rules around the speaking of language other than English. The Prime Minister of Australia a few years ago famously spoke to Canberra in the local aboriginal language, which is the Ngunnawal language. He spoke a few words in a speech there and was of course lauded for doing so because he was trying to be inclusive. Once again, though, perhaps it was more a gesture than anything that flowed on from it

I understand the Australian Parliament has a reference from a committee to look at how to do better with aboriginal languages, but it hasn't gone any further than being referred back for further consideration by a committee.

I think that's probably all I'll say for opening.

● (1930)

The Chair: Thank you very much. I know you only have 10 minutes left, so we're going to be very informal. We'd like really quick questions and really quick answers.

Just really quickly, can you tell me how many aboriginal languages you have and how many seats there are in your Parliament?

Mr. Michael Tatham: We have 25 seats in our Parliament. In our Parliament we have six aboriginal members, in this assembly.

The Chair: I'm sorry, I meant how many languages in the country, in the area?

Mr. Michael Tatham: In the country, I'm not sure.

The Chair: In the territory...?

Mr. Michael Tatham: In Northern Territory, we have an estimate that it's between 100 and 130 languages or subdialects of aboriginal languages, but when we are talking to people in East Arnhem, they will have subdialects and there will be a community not far from another community that will speak a different language.

The Chair: Romeo, do you have a question?

Mr. Graham.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): First of all, is there any physical infrastructure to do translation in the Australian Parliament?

Mr. Michael Tatham: In the Australian Parliament I don't think so. There's certainly not here in the Northern Territory Parliament. We don't have any infrastructure in place that provides a booth or services or earpieces or any of that.

Mr. David de Burgh Graham: In the legislature there's no special treatment for an aboriginal language rather than a foreign language, so you could speak Japanese as easily as a local aboriginal language. Is that correct?

Mr. Michael Tatham: That is correct; there is a standing order that would permit that.

Mr. David de Burgh Graham: You're required to provide a translation for what you say. Does that include captured heckles?

Mr. Michael Tatham: You have to provide what you said, whatever that is, and it's on trust. It's not done by an independent service.

Mr. David de Burgh Graham: Thank you.

The Chair: Next is Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): Thank you.

Well, you answered one question that I think we all needed to understand. Australia, perhaps next to Papua New Guinea, has the richest linguistic diversity for its geography and population of any place in the world. That is somewhat different from Canada, where we have a smaller number of indigenous languages that in some cases are spread across 1,000 kilometres or more of territory. That creates its own problems.

Effectively someone can stand up, then, and give a speech in their own indigenous language and submit a written transcript—is that how it's done?—to allow everybody else to know what's going on. Or do they have to then say, now I'm going to stop and repeat it in English? What is the process there?

Mr. Michael Tatham: They are to speak in English first or table a copy of the English words first. This was the matter of controversy, as to whether it should be first in English or first in your own language. The member from Nhulunbuy has said he speaks in his own language first, and English comes second, but the assembly has said no, the language of the assembly is English first.

Mr. Scott Reid: Right. I think I see what he's getting at. He's going to formulate his ideas, and they will be.... It strikes me that if you don't have a set piece whereby you know the structure of the debate a day in advance, it would be hard to prepare your remarks, have them written down for yourself, and translate them. I can see a practical difficulty that might arise, certainly if you want to respond in the moment to whatever is being discussed. It sounds as though this process would be limiting.

Mr. Michael Tatham: The member has indicated that it does limit his ability to contribute to debate on behalf of his constituents.

Mr. Scott Reid: What percentage of the population of the Northern Territory would be people who use aboriginal languages—all of them together—as what we would call their mother tongue, as distinct from those for whom English is their mother tongue?

Mr. Michael Tatham: The population of the Northern Territory is around 230,000 people. Around 70,000 of those are aboriginal people, and around 60% of those 70,000 speak an aboriginal language every day as their first language.

● (1935)

Mr. Scott Reid: We call that the language of home use; it's something that you prefer to speak, given a choice, in a domestic environment. Would that be the way to think of it?

Mr. Michael Tatham: Yes.

Mr. Scott Reid: Okay. That's very high by Canadian standards.

Thank you for that.

The Chair: Okay.

Is there anyone else?

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Maybe I'll ask a quick question.

Thank you for your presentation.

You spoke about the fact that there's no constitutional framework for official languages in Australia. Are there other rules that may govern certain situations? For instance, if an indigenous person is elected who only speaks an indigenous language, what happens in that case?

In our case, government services are here to serve Parliament, and that was confirmed by testimony here in this committee. What are the other rules that will govern that situation?

Mr. Michael Tatham: There are rules of the court, for example; an aboriginal interpreter service will be used for a person who is appearing before a court and needs to speak in their first language, their aboriginal language.

The aboriginal interpreter service is a well-funded, large service, with a lot of different people working in it to try to cover all of the language groups. That is the service we used seven or eight years ago when we did outreach committee work in communities. We did consultation with that service and we chose the 17 most commonly used languages for doing the outreach work. That still didn't enfranchise everyone.

There is a problem. There's a problem when people need to engage with government and they don't speak the language of government. The language of government is English. The government has put some resources into such things as the aboriginal interpreter service, but of course, in communities there are problems with policing and things like that, when people might interact with law enforcement and the law enforcement officer doesn't speak the local language. What they've done in the police is have liaison officers who engage local community people to work with the police.

Mr. Romeo Saganash: Thank you.

The Chair: David.

Mr. David de Burgh Graham: If an indigenous language speaker were to speak in an indigenous language in the legislative assembly and refused to speak English, what would be the repercussions?

Mr. Michael Tatham: That would be highly disorderly. That would be a matter for the assembly itself to determine.

Of course, the Speaker has pulled up the member from Nhulunbuy. The member from Nhulunbuy has done that on one occasion. The Speaker didn't interrupt him; she let him speak and afterwards she said, what you've done is out of order. She was conciliatory, saying, what you've done is out of order, because we don't know what you've said and we don't have any systems in place to find out what you've said. I think, of course, that was the point he was making.

It becomes a matter of disorder under the standing order.

Mr. David de Burgh Graham: Is there any constitutional protection for either the people or the languages, in either the country or the states?

Mr. Michael Tatham: No.

Mr. David de Burgh Graham: Thank you.

Mr. Scott Reid: I realize that none of these languages had a written form prior to the arrival of Europeans, but do they presently? Do any of the languages in the Northern Territory have a written form, or are they all purely oral?

Mr. Michael Tatham: There is a written form. It's interesting. When we look at all this, the way that the Inuit language is being put into syllabic form is very interesting, but of course here it has just been a transliteration using the European alphabet.

There is, then, a written form, but of course once it is written down there are many more consonants than vowels, and it's very difficult sometimes to get the correct spelling of what the written form is, because it's not standardized.

There have been attempts at written form. I think a Bible was written a few years ago in one of the aboriginal languages, but it would be the linguists who decided that this is the way you write that aboriginal language.

Mr. Scott Reid: Right. It would make it genuinely difficult for a member who had done what you described: giving a speech without having an English written form. He would have to, on his own, provide that English after the fact by listening to himself. He couldn't actually consult his notes, because he wouldn't have had written notes in his own language.

● (1940)

Mr. Michael Tatham: He would not necessarily; that's right. It's much more organic when you have a discussion with aboriginal people about what's coming out of their mouths, which is not necessarily something they are reading from.

Mr. Scott Reid: Right.

Okay, thank you.

The Chair: Is there anything different in any of the state or the national legislatures that you are aware of, related to this topic?

Mr. Michael Tatham: No, the situation is the same. When we did our survey a little more than a year ago, all the legislatures only allowed the speaking of a language other than English by leave. We're the only one we know of that actually has a standing order now that has a set of rules around it. Whether that's a good idea or not is a matter for the assembly, but there is no constitutional right for anyone to speak in any of the languages.

The constitutions of the states of Victoria and New South Wales and maybe one or two others in the last 10 or 15 years were amended to recognize that aboriginal people were there first, but that's as far as they go.

The Australian constitution does not recognize aboriginal people in any particular way, other than around the fact that the Australian Parliament may make special laws for aboriginal people. That's pretty much as far as it goes.

The Chair: David.

Mr. David de Burgh Graham: Thanks very much. I really appreciate this. It's been very informative for me.

The Chair: Thank you for staying late. We know you have to rush off now, so thank you very much. We really appreciate it. It was some very fascinating information.

We can't see having our translation booth with 125 translators. You have a lot of languages.

Thank you.

Mr. Michael Tatham: Okay. Best of luck. Thank you.

The Chair: Tomorrow in the first hour we're going to do the report on indigenous languages. Look at the draft, which you got in an email this afternoon. Then in the second hour we'll do committee business.

Tuesday, for the first hour the committee and the sub-committee—anyone who wants to come—and one witness from the CHRO are briefing the independents on the confidential sub-committee report.

Thanks for coming. It was bad timing, but I think it was very interesting.

We are adjourned.

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