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Chair

The Honourable Denis Paradis

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• (1105)

[Translation]

The Chair (Hon. Denis Paradis (Brome—Missisquoi, Lib.)): Pursuant to Standing Order 108(3), we are continuing the study of the subject matter of the Interim Estimates 2019-20: Vote 1 under the Office of the Commissioner of Official Languages.

This morning, we are pleased to hear from the Commissioner of Official Languages, Raymond Théberge, who is joined by members of his team.

Mr. Théberge, I will give you time to introduce the people accompanying you.

As usual, you have about 10 minutes to make your presentation, which will be followed by questions and comments from committee members.

Mr. Théberge, go ahead.

Mr. Raymond Théberge (Commissioner of Official Languages, Office of the Commissioner of Official Languages): Thank you, Mr. Chair.

[English]

Mr. Chair and honourable members of the committee, good morning.

I'm appearing before your committee to present the highlights of the main estimates for my office, and to talk about a possible federal-provincial-territorial summit.

Joining me today are my three assistant commissioners: Ghislaine Saikaley, Pierre Leduc and Éric Trépanier; and my general counsel, Pascale Giguère.

My office has a budget of \$21.7 million to carry out its mandate during the 2019-20 fiscal year. This amount includes \$15.1 million in salaries, which is nearly 70% of the main estimates. An additional \$4.3 million for operating expenses accounts for almost 20% of the main estimates. The remaining \$2.3 million—or just over 10%—of the main estimates represents statutory expenditures related to the employer's contribution to employee benefit plans.

These funds are used to support my office in carrying out its mandate through its two programs: protection of official languages rights and advancements of English and French in Canadian society, which are supported by internal services. Other than the statutory

expenditures I mentioned earlier, the budget for 2019-20 is essentially the same as last year's.

Protection activities include investigations, audits and other compliance-related activities, as well as legal services. Planned spending in 2019-20 for this program is \$7.6 million, or 35% of the total budget. Planned spending for advancement activities is \$7.2 million in 2019-20, and \$6.9 million has been allocated for internal services. These respectively represent 33% and 32% of the total budget.

[Translation]

Because we are committed to using public funds with the utmost integrity, we have also developed a culture of continuous improvement. Some measures have already been put in place, such as continued investment in information management and information technology to make business processes more efficient and effective. We will continue to ensure sound management of our budget, based on the priorities I will establish.

Of course, if we had a bigger budget, we could undoubtedly be able to resolve some investigation files more quickly and conduct more research, studies and audits. The latter three often take a back seat when we need to focus our resources on investigating complaints and following up on commitments and recommendations made during those investigations.

As an ombudsman, I have to focus my resources on the two programs through which my mandate is carried out, which I talked about earlier. Complaints have been on the rise since 2012—from 400 or 500 to more than 1,000.

For now, based on the improvements we have made to manage our complaint files, I am confident that my staff and I can continue to fulfill our mandate within the current funding envelope. However, if the trend continues, we will understandably have to consider asking for additional funding.

If I may, I'd like to come back to the discussion we had here last December. In 2018, official language minority communities across Canada experienced many setbacks owing to various budget cuts and government decisions that weakened the status of our official languages, despite the fact that the Official Languages Act has been around for five decades. Obviously, I am dismayed and disappointed by this turn of events. I never thought I'd have to make public statements about language rights setbacks in 2018, just as the act was about to celebrate its 50th anniversary.

Sadly, Canadians' language rights are still being infringed. For example, some voters are still being denied their right to vote in the official language of their choice, even though it is a fundamental right. And it is still difficult for many to obtain services in the official language of their choice where required by law.

[*English*]

Given the current situation and the fact that the Official Languages Act is about to turn 50 years old, it's time for the government to take action on a national level and establish a dialogue with the provinces and territories, perhaps in the form of a federal-provincial-territorial summit, in order to discuss the future of linguistic duality and of official language communities and to come up with concrete and long-lasting solutions.

The federal government has already taken some positive steps with respect to official languages. For example, it has announced its intention to modernize the act and has recently begun conducting national discussions on official languages and bilingualism. It has also begun implementing the action plan for official languages 2018 - 2023, "Investing in Our Future", which provides significant funding for official language communities. Given these positive steps, I see an opportunity for the Prime Minister to exercise strong political leadership to reaffirm linguistic duality across the country.

In order for linguistic duality to be meaningful and to be something that brings us together, Canada's official languages must claim their rightful place. Without strong support for official language minority communities across Canada, our linguistic duality cannot succeed and the social contract that brings us together is weakened.

As you know, the act is a federal statute, but the way Canadians live their lives in their own official language is very dependent on provincial and municipal governments, in school, at work, at play, online and even while simply ordering a coffee. How then do we ensure that our two languages have their own place in these public spaces where the power of federal law is limited? This is an issue that could be discussed at a summit.

I've said before and I'll say it again: official languages are everyone's business.

[*Translation*]

I want to add that the provinces and territories have an important role to play in protecting official language minority communities by making sure that linguistic duality is always on the agenda. They need to recognize the economic and cultural contribution of these communities across Canada.

I think that a federal-provincial-territorial summit would yield tangible results among key stakeholders, such as increased awareness and a renewed commitment to linguistic duality. Investing in the future, in young Canadians and in our communities ensures the vitality and longevity of Canada's official languages.

And so, we must continue to be vigilant to prevent federal and provincial authorities from making decisions and taking actions that undermine official language minority communities. We need to strengthen these communities, not weaken them. And we need leaders from all levels of government to make this happen.

Thank you for your attention.

If you have any questions, please feel free to ask them in the official language of your choice, and I will be happy to answer them.

• (1110)

The Chair: Thank you very much, Mr. Thériège.

We will begin the questions and comments right away with Mr. Clarke.

Mr. Alupa Clarke (Beauport—Limoilou, CPC): Thank you, Mr. Chair.

Commissioner and all those accompanying you, good morning.

Welcome to this new room; this is the first time we are meeting here.

Mr. Thériège, I would first like to ask you how many employees the office has.

Mr. Éric Trépanier (Assistant Commissioner, Corporate Management Branch, Office of the Commissioner of Official Languages): We have 165 employees.

Mr. Alupa Clarke: That's a fairly substantial number.

You shouldn't see any hidden agenda in my next question.

I see that you have \$19 million in main estimates 2018-19.

We also see an amount of \$4 million for the Office of the Commissioner of Lobbying, and another \$5 million for the Office of the Public Sector Integrity Commissioner.

What explains that discrepancy between your office and those other offices, just for our information?

Mr. Raymond Thériège: Our office's mandate is the protection and promotion of linguistic duality. That is why the government decided, a long time ago, to provide us with funding to enable us to fulfill our mandate, both in terms of the protection aspect and the promotion aspect. Our office's history stretches further back than that of other parliamentary agencies.

Mr. Alupa Clarke: Indeed.

I assume you also have more employees, right?

Mr. Raymond Thériège: Yes. We have more employees.

As I was saying earlier, there has been a significant increase in complaints. Some other commissioners have also noted an increase in complaints, and they're seeking additional funds, as well.

Mr. Alupa Clarke: That is noteworthy.

Commissioner, in your opening remarks, you talked about the fact that you didn't think you would take office during a year when language rights were being infringed, as you put it.

In relation to that realization, have you seen an increase in complaints during this year compared with other years?

Mr. Raymond Thériège: Yes. During the fiscal year that ended on March 31, we received a record number of complaints—1,086. That is unprecedented, and it has clearly resulted in a lot of work. Investigations must follow steps, and we must ensure that they are always properly conducted.

So it is true that Canadians are increasingly aware of their rights and increasingly prepared to assert their rights with federal institutions.

Mr. Alupa Clarke: What part of the act did most complaints focus on?

Mr. Raymond Th  berge: More than 50% of complaints focused on part IV—the part that concerns communications with and services to the public.

Mrs. Sylvie Boucher: Is that right?

Mr. Raymond Th  berge: Yes, over 50% of them have to do with part IV.

Mr. Alupa Clarke: Okay.

That's interesting.

For next year, you are seeking \$21.7 million. Are you requesting that money or is the government giving it to you of its own accord? Is it sufficient? Are you satisfied? Is it enough? Is it too much? I suppose it is never too much.

Mr. Raymond Th  berge: I will let Mr. Tr  panier answer part of the question, and I will then answer the other part.

Mr.   ric Tr  panier: As for the \$21.7-million request, that is the annual amount allocated to us, and it varies somewhat when collective agreements are signed. The amount is more or less the same from year to year. The only variations for the time being are due to salary increases.

Mr. Alupa Clarke: Okay.

I understand.

Mr. Raymond Th  berge: The second part of your question was about whether or not the amount is sufficient. As I said, right now, we are capable of managing the increase in complaints. However, there are still some areas where we could do more, such as in education, research, audits and follow-ups. It is extremely important to properly understand the context we are operating within.

The research aspect is extremely important. We are not really doing the research ourselves; we put in orders with researchers. It is extremely important to be able to use evidence produced by researchers. So it is a matter of knowing how we can use that to better guide our work.

However, as I also mentioned, if the trend continues, we will have to increase the number of investigators, without neglecting the promotion aspect. Something I have noted this year, as I travelled around the country, is to what extent official languages are not understood by people in majority situations. We often talk amongst ourselves, we are very familiar with official languages, but those individuals very often do not understand the concept of official languages, linguistic duality, or even official bilingualism. So it is important to conduct promotion with people in majority settings, as well as with those in minority settings.

• (1115)

Mr. Alupa Clarke: That brings me to a sub-question, Commissioner.

There are issues with translation at the Canada Infrastructure Bank, the National Energy Board, or NEB, on tendering Internet

sites, and so on. There are also cases of flagrant arrogance, such as what happened at the NEB.

Do you have the power to send them a letter signed by you asking what the issue is? Are you doing that?

Mr. Raymond Th  berge: The two cases you brought up are currently under investigation. So I don't have much to say about this.

Mr. Alupa Clarke: I understand.

Mr. Raymond Th  berge: However, there is an important consideration regarding complaints, which is that nearly 30% of them are resolved through the facilitated resolution approach. For example, if someone notices that a website is not available in both official languages, they call us, and we resolve the issue. It is as simple as that. The complainant will then receive a letter informing them that the situation has been resolved.

In a formal investigation, we have to follow steps. When it comes to the informal aspect, however, we have a lot more flexibility.

The Chair: Thank you very much, Mr. Clarke.

We now go to Mrs. Fortier.

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Thank you very much, Mr. Chair.

I think that Mr. Clarke and I are on the same wavelength. I had a number of questions focusing on the same issues as his questions, but I will continue to pursue that aspect.

Thank you for joining us, Commissioner.

As I said at the outset, Commissioner, it is as if you had a VIP card of sorts, like the one issued on the show *Tout le monde en parle*. You pay us visits often.

My first question was about the number of investigations and their increase, and not only during last year. I assume there has been a steady increase over previous years. Am I wrong?

Mr. Raymond Th  berge: The number of complaints has varied since 2012-2013. One year, we received nearly 1,000 complaints, but that number dropped to 800 the following year. This year, however, the number of complaints increased by 21% over the previous year.

Have we reached a new high and is this our new norm? Previously, our norm was 500 or 600 complaints per year. That required us to operate in a certain way.

So I am wondering whether the number of complaints will increase in a similar fashion next year or will stabilize. If our new norm is 1,000 complaints per year, we will have to operate differently and wonder whether we have sufficient resources to do our job.

Mrs. Mona Fortier: I understand that 50% of those complaints focus on part IV provisions.

Were there any surprises in the complaints you received last year or over the past two years that may have been about, for example, new issues?

Mr. Raymond Th  berge: I can't say that was the case.

However, every time a new institution is created—or at least in very many cases—we note that it is not really conscious of its official languages obligations.

As I was saying earlier, the workplace is changing a lot. One of the areas I am thinking about is the travelling public, which is the source of many of the complaints we receive. The environment in which that segment of the population is evolving has changed tremendously over the past 20 years and, in my opinion, the act does not provide us with all the tools we need to deal with the new reality.

• (1120)

Mrs. Mona Fortier: You talked about the modernization of the Official Languages Act, and a number of us are working on that file. What will you focus on over the next year? Will it be research activities, activities on the ground? What will your priority be? What efforts will you invest and what resources will you need to get there?

Mr. Raymond Thériège: In 2018, the office launched a very broad consultation program on the modernization of the act. We started with in-person meetings with more than 300 association representatives, stakeholders, experts and researchers. Afterwards, we carried out an online survey focusing on aspects of modernization to be prioritized, which was completed by 4,200 Canadians.

In May, I will submit my report on modernization, which will provide not only the results of our consultations, but will also outline the efforts of other stakeholders in this file, including the Standing Senate Committee on Official Languages, your committee and the Fédération des communautés francophones et acadienne du Canada, or FCFA.

Next year, after the election, we will have to restart the process and bring the modernization of the act to the forefront. The modernization process is well underway. We would like a new bill to be introduced by 2020 if possible, but that decision is not up to the office.

Mrs. Mona Fortier: Okay.

You often talk about what the money enables you to do, but is there currently anything you cannot do owing to a lack of funds? If so, what is it?

Mr. Raymond Thériège: As I said already, additional funding would help us increase our research, communication and promotion activities.

Obviously, the office will never have the same funds for its promotional activities as a government or even a department. So it is up to departments or federal institutions, which have the resources to do so, to take responsibility for any national campaigns.

We must use evidence to inform our work. We need tools and resources to carry out our research, audits and follow-ups.

Mrs. Mona Fortier: I would like to hear your opinion on the issue of evidence, especially as it relates to language variables, which it seems impossible to obtain, even through a census. We seem to be lacking data that would enable us to establish connections in our research. So those language variables are very important.

Mr. Raymond Thériège: There have been some talks and discussions with Statistics Canada over the past few years to enable us to better identify those language variables. That is extremely

important. First, it is a matter of being able to identify francophones and, second, to determine points of service, the geographic location, and so on. Those language variables must take into account the evolution of communities over the years, exogamy and immigration. For instance, there are many immigrants whose first language is not French, but who speak it. For those people, French is not their first official language spoken—the famous FOLS. It is important to be able to understand all those variations relating to language.

The Chair: Thank you very much.

We will now move to Mr. Choquette.

Mr. François Choquette (Drummond, NDP): Good morning, everyone.

I will not be talking to you about Netflix. Actually, as everyone now knows, I have asked for legal proceedings against the Netflix decision. Of course, this is not personal, nor is it directed against the Office of the Commissioner. The goal really is to move the official languages issue forward, specifically French. We are talking about \$25 million from \$500 million, probably with nothing to show for it in terms of creating French-language content. Moreover, there is no provision at all for official languages in minority situations, which is a total scandal. Everything that can be done must be done. I started this and I am going to keep going.

Having said that, I am going to raise some other matters. You talked about complaints and you said that there are more than previously, which makes life difficult, and that some of them take a lot of time. For those making the complaints, it is sometimes frustrating. The situation can be incomprehensible and shocking. Let me give you two examples. The first is about the complaint about the RCMP on the Hill. You are very familiar with it. It was submitted by my former colleague Yvon Godin—gone, but by no means forgotten. He sent you a letter which, since it is public, I can read. It said this:

First, I am stunned to learn that the RCMP has completely ignored your recommendations since your final report in 2017. But I gather that you brought the problems to the RCMP's attention in 2015 ...

The two recommendations are extremely simple: draft and implement a procedure to issue reminders about official languages and establish a mechanism to confirm that the services are provided.

How do you feel when you see such things happening in a federal institution?

• (1125)

Mr. Raymond Thériège: There are two types of responses when we follow up on commissioner's recommendations. First, in 80% of cases, federal institutions implement the recommendations. However, in 20% of cases, taking action is difficult. First, in recent years, we have observed a kind of levelling off in official languages in federal institutions. Then, it is too often the case that the measures put in place by federal organizations do not last long and do not solve the problem. Unfortunately, in some cases, such as the one you mentioned, I believe, the Commissioner only has certain powers...

Mr. François Choquette: Commissioner, I do not want to be impolite, but I am going to interrupt you there. Please forgive me.

Yvon Godin added:

The Office of the Commissioner must go and get the essential information from the RCMP, resist though it may.

How do you respond to that? Why don't you ask the RCMP to provide you with information about its bilingual capacity on the Hill? Why don't you do that?

Mr. Raymond Thériège: We made that request.

Mr. François Choquette: You made that request?

Mr. Raymond Thériège: Yes.

Ms. Ghislaine Saikaley (Assistant Commissioner, Compliance Assurance Branch, Office of the Commissioner of Official Languages): Yes, absolutely. We are waiting for the RCMP's reply to that preliminary report. I would also add that the matter was complicated by the fact that the Parliamentary Protection Service was created at the same time, or very shortly after the complaint was filed. So we were in discussions, not only with the RCMP, but also with the Parliamentary Protection Service. Because that new organization was being created, the RCMP was modifying its role. Between 2015 and the time the report was produced, we had a number of discussions with both organizations. At the moment, we are expecting a reply on the two recommendations from the RCMP. Then we will complete our investigation.

Mr. François Choquette: Okay.

It goes back to 2015, let me emphasize.

Ms. Ghislaine Saikaley: Absolutely.

Mr. François Choquette: So the government is acting in bad faith in the matter.

I want to talk to you about something else that is also a great concern, in my opinion. The Alliance nationale de l'industrie musicale, ANIM, is another public matter—which is why I am talking to you about it. The alliance also issued a media release saying that its request is public.

You produced a first preliminary report in March 2018, which criticized the fact that Part VII of the act is not being upheld in terms of the contribution by SiriusXM Canada. In its release, ANIM says this:

Very recently, in February 2019, ANIM was devastated to receive from the commissioner an amended report on the investigation into its 2013 complaint. Mr. Thériège is doing an about-face on his decision from a year earlier and finds that the complaint is without foundation.

This is another complaint that goes back a very long time.

Does it happen often that a complaint first has a foundation and then, because things happen, it no longer does? Is this the only case? Do you often decide first that a complaint is founded, conduct an investigation and make recommendations, and then do an about-face thereafter?

• (1130)

Mr. Raymond Thériège: It does not happen often. In this case, and in a few others that happened in the last year, it's largely because

of Justice Gascon's decision in the case involving the Fédération des francophones de la Colombie-Britannique.

Mr. François Choquette: The Gascon decision.

Mr. Raymond Thériège: That decision means that we have to reevaluate some reports about Part VII and change the rules of interpretation. The report you mentioned is a preliminary one.

Mr. François Choquette: It goes back to 2013, Commissioner.

You are telling us that, if this goes on, you will need additional financial help to deal with complaints. A complaint like that is very serious. You say it yourself in the report. Official language minority communities, OLMCs, were not consulted on the matter. Since 2013, SiriusXM Canada has not been contributing to the Canada Music Fund. The damage has been going on since 2013, and I find that to be a concern.

Why are you not asking for more money right away, so that you can respond to complaints more quickly, and act as a result?

You have just asked the RCMP for figures in 2019, but the complaint goes back to 2015.

The Chair: Mr. Choquette, I am going to consider that as a commentary.

Mr. François Choquette: I understand, Mr. Chair.

The Chair: The floor now goes to Mr. Samson.

Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.): Mr. Thériège, my thanks to you and to the members of your team for joining us. Thank you also for your presentation, Commissioner. You are answering our questions and sharing your vision with us, as you did in your report on the modernization of the Official Languages Act, which is very interesting.

In your presentation, you mentioned that the government has taken great steps forward in recent years. I am talking about the action plan, which anticipates huge investments in official language minority communities and the modernization of the Official Languages Act. These two very positive measures certainly show that it wants to increase the vitality of those communities quickly and effectively.

My first question deals with the importance of promoting that linguistic duality. In your presentation, you said that some Quebecers and the anglophone majority do not really know the importance of bilingualism and linguistic duality. Fifty years after the establishment of the act, how can we focus on highlighting that duality, which is such a treasure? I am not convinced that everyone sees it as a treasure.

Can you comment on that whole issue, please?

Mr. Raymond Thériège: I can tell you what we are doing in terms of the majority, for example, given the commissioner's very limited means.

We make presentations in schools, we meet with groups. For example, with the consultations that Ms. Joly is currently leading, the people attending are almost solely members of francophone communities, outside Québec in particular. Linguistic duality has two sides. During those consultations, it is important to make sure that there are representatives of the majority, as well as members of Canadian Parents for French, who are very important key partners.

Another important factor is second-language teaching in Canada. Bilingualism rates are levelling off, as the government has noted. Significant targets were set in terms of increasing the number of bilingual people, especially among anglophones outside Quebec. That is going to require significant investments in second-language teaching and teacher training. We can certainly also promote linguistic duality through the school system.

The other point is that it is probably the federal government's responsibility to launch a promotion and awareness campaign about the notion of linguistic duality. Everyone must accept linguistic duality, not just francophones.

• (1135)

Mr. Darrell Samson: Personally, I agree with you 100%. Anglophones, and perhaps majority Quebecers, do not believe in that linguistic duality. Our next efforts should perhaps be about giving a renewed boost to the treasure that it is.

My second question is about the complaints. If I understood correctly, you said that 30% of the complaints are quickly settled and that 50% of them take time to settle, but settled they are. That means that 80% of the cases are generally settled. Can we focus on the 20% of the complaints that are not settled? What types of problems do you see in that category and which institutions do they involve?

Could we have a table that would give us an overview of those institutions and the much more complex problems that seem to reflect the complaints in that category? In that way, our next effort could target a response to the challenges they represent.

Mr. Raymond Th  berge: The question we have to ask ourselves about that 20% is whether they can be attributed to systemic failures. If that is the case, is there a systemic approach that would enable us to find a solution?

Let me give you an example of the complaints we receive very frequently. It is about job classifications in the public service. We receive many complaints about section 91 of the act. So we focused on it. We developed a new approach to settling those complaints more quickly. This is a pilot project for the moment, and I hope it will allow us to quickly settle that kind of complaint. We will see what the outcome will be.

But, with some federal institutions, the problem keeps coming up. Let's agree on that. Whether it is Air Canada, CATSA, the Canadian Air Transport Security Agency, or the Canadian Armed Forces, it is a systemic problem. So we have to find systemic solutions.

Mr. Darrell Samson: I am sorry to interrupt you; my time is almost up.

My question is whether it is possible to provide a picture of the situation with the remaining complaints, the 20%, the systemic problems and the groups they involve. If that turns out to be a real

problem, perhaps we will have the opportunity to find solutions in our next steps.

Ms. Ghislaine Saikaley: We could perhaps provide you with a table of the federal institutions about which we receive the most complaints, and the types of complaints we receive.

Mr. Darrell Samson: Yes.

Ms. Ghislaine Saikaley: The 20% that Mr. Th  berge mentioned just now is in following up on recommendations. It is not necessarily about the number of complaints, but we could provide you with information about that.

Mr. Darrell Samson: Super.

The Chair: You can be sure that our clerk will happily send a copy to each of us.

Thank you, Mr. Samson.

The floor now goes to Ms. Lambropoulos.

Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.): Thank you for appearing before us once more to answer of questions.

[English]

The question I'm going to focus on mainly concerns the summit that you've been wanting to hold. I want to know what exactly the benefits would be for anglophones in Quebec and for francophones outside of Quebec, if this summit is held. Can you go a little more into detail?

Mr. Raymond Th  berge: As I mentioned earlier, the whole question of linguistic duality is not really understood by many Canadians. I think that is reflected by some of the actions taken by provincial and territorial governments. We've come a long way over the last 50 years, but also, I think, we've reached a point at which we have forgotten what this duality is all about. If we could bring around the table representatives from the provinces, territories and the federal government to basically revisit linguistic duality and relaunch it, in the sense that it becomes more visible, more present in, for example, in Canadian society.

One thing that is very important is that over the last year many of the incidents happened in provinces. In my view, it's because in most provinces because there is a lack of understanding of what linguistic duality is all about.

In Quebec, for example, the English-speaking minority faces challenges in being recognized within the province as a key contributor to the province. I think there will be challenges with the whole question of school boards. That's coming down the road.

The whole issue is that we have to reinvigorate the concept of linguistic duality in Canada; we have to give it life. It has to be more than just something the federal government does; it has to be appropriated by provinces and territories. I think we could have an agenda—not a three-day meeting, but an agenda—whereby we can talk about access to justice, about first and second language education, about early childhood learning, about health care, with respect to official languages, just to bring some visibility and focus to the concept of linguistic duality, to bring it back to life.

• (1140)

Ms. Emmanuella Lambropoulos: Okay.

Thank you very much.

[*Translation*]

The Chair: We now move to Mr. Généreux.

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

My thanks to all the witnesses for being here today.

Ms. Lambropoulos asked the question I wanted to ask. But, along the same lines, I have the “killer question”, to stay in the spirit of *Tout le monde en parle* that Ms. Fortier mentioned just now.

I do not know whether the committee members remember, but we went to western Canada two years ago. At the time, I raised the idea of a federal-provincial summit specifically on education. I am happy to see that you are pitching the same idea today, because its time has come.

So here is the killer question now. Given that the federal government gives the provinces money, but the provinces are not required to account for the way in which they choose to spend it, or even to confirm that the money was spent for the activities for which it was provided, is it not a fantasy to believe that the linguistic rights of anglophone and francophone minorities across the country will be respected any time soon? Do you understand my question?

Mr. Raymond Thériège: Yes.

Mr. Bernard Généreux: It is a long question but it really may be a killer. I was a member of the Standing Committee on Official Languages in 2010-2011. We have been here for four years, pushing for things to move forward. So, given that the federal government has no way of monitoring the money it spends on education at provincial level, how do you want to move things forward, really?

Mr. Raymond Thériège: During our consultations on modernizing the act, we had a lot of discussions about that. A point that often comes up is to include language clauses in the federal-provincial agreements.

Spending power belongs to the federal government. If it decides to invest in communities, it therefore has the right to demand accountability, and particularly by including language clauses in the agreements under which the federal government transfers funds to the provinces for activities that affect linguistic minorities.

Mr. Bernard Généreux: Do we have those clauses now?

Mr. Raymond Thériège: Some agreements contain such clauses, yes, but, in my opinion, they are very ambiguous and very loose. However, I feel that the next agreements, such as those made under

the OLEP, the Official Languages in Education Program, will have much clearer clauses defining the activities in which the money must be invested.

Actually, there also has to be reciprocity on the part of the provinces and territories with the federal government investments. Education is certainly in provincial jurisdiction, but the money for it comes from the federal government. The provinces and territories are therefore answerable to it and should show more transparency in the manner in which they invest and spend that money.

Mr. Bernard Généreux: Say that, tomorrow, the Liberal government proposed holding a Canada-wide summit bringing together the provinces and territories, and even school boards, which are very concerned by the matter. Most of them are actually the first to complain that they have not received the money meant for them.

Would you expect all the players to automatically agree to take part in a summit like that or would we have to pull some people in by their ears?

• (1145)

Mr. Raymond Thériège: First, the summit should bring together all those with a major role to play in promoting linguistic duality. However, given the Canadian reality, some steps would perhaps need to be taken so that all the players can participate.

That idea has already been floated.

Mr. Bernard Généreux: Forgive me for interrupting you. Which players would you expect to see at the summit, the education ministers of each province, or the first ministers?

Mr. Raymond Thériège: There are various approaches. The Ministerial Conference on the Canadian Francophonie could be an interesting forum. There is also the Council of Ministers of Education Canada, because it deals with education and with official languages in schools, and it negotiates the OLEP.

So there are various players. My feeling is that the Office of the Commissioner does not necessarily have the authority, the mandate, to organize a conference of that kind.

Mr. Bernard Généreux: If you were asked to, would you do it? Clearly, there would be a budget associated with the request.

Mr. Raymond Thériège: Who would give a commissioner the mandate to organize a federal-provincial-territorial conference? The federal government would be responsible for organizing a meeting of that kind, if that is what you want. Some forum for doing so would have to be found.

Mr. Bernard Généreux: I have finished.

The Chair: Thank you, Mr. Généreux.

Your turn, Mr. Rioux.

Mr. Jean Rioux (Saint-Jean, Lib.): Thank you, Mr. Chair.

Mr. Thériège, I am always pleased to see you because you represent an important Canadian institution. We are all proud of bilingualism, which is part of our identity.

The Official Languages Act is celebrating its 50th birthday this year. Earlier, you mentioned that 2018 has been a horrible year for bilingualism. We can think of the Université de l'Ontario français, which was denied funding, the Office of the French Language Services Commissioner in Ontario, which lost its independence, and the election of three anti-French-Canadian MLAs in New Brunswick. We are living in troubling times.

I have visited Western Canada on a number of occasions. In Vancouver, there are even notes of optimism. In that city, the number of francophiles has increased because of the arrival of new francophones and people from Asia who want to learn Canada's languages. Just now, you seemed to be saying that there is a problem with immersion programs, but I don't think that the problem is a lack of demand for them from the public.

What is your analysis of the events in Ontario and New Brunswick that show that bilingualism is not sailing full steam ahead? In Canada, bilingualism is part of our fundamental identity.

Mr. Raymond Thériège: The events of 2018, including the comments on the program *Tout le monde en parle*, have actually had a positive effect, in the sense that they have created solidarity between francophones from one end of the country to the other.

Immersion is an interesting phenomenon. In the last four years, registrations have increased by 20%. More than 430,000 students are registered in immersion programs in Canada. The problem has more to do with the lack of teachers of French as a second language. Recently, we conducted a study on the problem that earned us extraordinary media coverage. The study was launched in Vancouver because they are crazy for immersion programs there.

Immersion is an important factor. It is a lever that we have to use to promote linguistic duality. To do that, we have to make sure that French as a second language programs have the resources they need to provide quality education. In the past, that was one of the shortcomings. Young Canadians were not given sufficient opportunity to learn the second language, resulting in the fact that, today, everywhere in Canada, we now have a lack of bilingual personnel.

• (1150)

Mr. Jean Rioux: Let us go back to the schools. We have heard on many occasions that francophone school boards in minority situations cannot make their own decisions and, basically, that they are not getting the money. There are no rules for governance and transparency.

Is it more the provincial government or the federal government that should intervene to make sure that young people who want to go to an immersion school or a French-language school can do so? I have been told that, in Vancouver, only one in five students who want to go to a French-language school can do so because not enough schools are offering French-language teaching.

In cases like that, is the ball more in the provincial government's court or the federal government's?

Mr. Raymond Thériège: Both levels should intervene. With the federal government investing money for the needs of first- or second-language teaching in French, it is very important for the accountability to be truly transparent and that there be language clauses to ensure that the money allocated to education really go to

that purpose, that of meeting the needs of the students in the community. Those funds must not go into general revenue, for example. Funds for French-language education, whether as a first or second language, must absolutely go right into the classroom.

The Chair: Thank you very much, Mr. Rioux.

Mrs. Boucher, the floor is yours for four minutes.

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): Good morning, Mr. Thériège. I am very happy to see you here. As you come to see us often, I deduce that you find us very nice. We also find you very nice in answering our many questions.

You told us earlier that 50% of the complaints are related to Part IV of the act. You also said that linguistic duality is poorly understood across Canada. We have talked a lot about the governments in place, on one side or the other. Governments do what they can, but the machinery is often resistant to linguistic change.

When I lost the election in 2011, I went to work for Health Canada. I can tell you that everything, or almost everything, went on in English. When I spoke in French, they called me the francophone lady from Quebec. People think that someone speaking French can only come from Quebec. Yes, a mentality needs to change. In meetings with organizations and individuals, it is always the same squeaky wheels, as I call them, who get in there and fight.

Could you give us some ideas about what could be done so that the public we want to serve becomes more involved and better understands linguistic duality? I am not necessarily talking about organizations; I am talking about the men and women in the street.

Mr. Raymond Thériège: Providing services to the public is one of the major factors. When people ask for a service, it often happens that it is not provided in the language of their choice. Every time they want to obtain a service in their own language, we are actually asking them to commit a political act.

In terms of modernizing the act, we have to talk about consistency between the various components, specifically between Part IV and Part V. Part V deals with the language of work. If we can make sure that people are working in the language of their choice, we would then be able to provide the public with better services in the language of their choice. Replies to the language questions in surveys conducted with public servants tell us that no change has occurred in the last ten years. In other words, 92% or 94% of anglophones say that they are working in the language of their choice, while only 62% of francophones say that they are able to do so.

We are talking about organizations, machinery, apparatus, and, inside that apparatus, people have to be able to work in the language of their choice so that we can then provide services to support the development of our communities.

The Chair: The floor now goes to Mr. Choquette. He will be the final speaker.

• (1155)

Mr. François Choquette: Thank you, Mr. Chair.

I would like to go back to the issue of a federal-provincial-territorial forum bringing ministers together. But first, I would like to congratulate you for asking for one to be held. It was really necessary. Unfortunately, time is flying by and the elections are coming. It would have been good to hold a forum of that kind in January or February. That was really the time, because the crisis in Ontario had reached its peak. There was also the situation in New Brunswick. I feel that you did a good thing in asking for it when you came to see us.

You took that step here at this committee, which was public. Did you also send letters to federal government officials to encourage them to hold a forum, or did you simply invite them to do so? Did you get a reply?

Earlier, the people from the government said that it is not up to you to take on that forum; it is up to the government. You told me that they should take the initiative, but did you get a reply from them? Did they see it as the right idea, but not the right time?

Mr. Raymond Th  berge: There was no official request, but there was media coverage.

Mr. Fran  ois Choquette: It got a lot of publicity.

Mr. Raymond Th  berge: We asked for reactions from governments. Let's say that the reply is a little lukewarm in terms of holding such a forum. As you said, it would have been useful to have it in January and February, when those events were going on.

The 50th anniversary of the Official Languages Act does not come to an end with the elections. It continues. In terms of the modernization of the act, it would still be a major action to take.

Mr. Fran  ois Choquette: Yes, I agree with you. We are heading into an election campaign soon. It will probably be an election promise that all our candidates could make, holding a forum as part of the 50th anniversary of the Official Languages Act. It is important.

We have seen in all provinces, and you have also mentioned it, that not everyone understands official languages in the same way. It's the same with the elected people. So it would be good to go back to it.

Do I have any time left, Mr. Chair?

The Chair: You have 20 seconds.

Mr. Fran  ois Choquette: Okay.

Mr. Th  berge. I just wanted to talk to you about the comments you made about the minister's consultations and the fact that the people attending them are not exactly those whom you would have liked.

Mr. Raymond Th  berge: I would just like a broader representation of people in the room so that Canadian society is better represented. It is a good idea. I welcome the consultations, but they have to be broadened.

By the way, I mentioned the forum to Ms. Joly and Ms. Lockhart. I just wanted to mention that.

Mr. Fran  ois Choquette: Thank you, Commissioner.

The Chair: Thank you very much for your presentation, Mr. Th  berge, and for your questions and comments.

Thank you to the entire group as well.

We will suspend this session before we start the second hour of the meeting.

• (1155)

_____ (Pause) _____

• (1205)

The Chair: We are resuming the meeting.

Pursuant to Standing Order 108(3), we are continuing our study of the modernization of the Official Languages Act.

Today, we are pleased to welcome the following witnesses: St  phanie Chouinard, Assistant Professor in the Department of Political Science at the Royal Military College of Canada and the Department of Political Science at Queen's University, and Jack Jedwab, President and Chief Executive Officer, Immigration and Identities, Association for Canadian Studies and Canadian Institute for Identities and Migration.

Welcome to both of you. We give you about 10 minutes for your presentations. Then we normally go around the table with questions from members.

Ms. Chouinard, the floor is yours.

Ms. St  phanie Chouinard (Assistant Professor, Department of Political Science, Royal Military College of Canada and Department of Political Studies, Queen's University, As an Individual): Mr. Chair, and ladies and gentlemen of the committee, let me start by thanking you for the invitation to discuss the modernization of the Official Languages Act with you. It is an honour and a privilege for me to be here with you today.

My name is St  phanie Chouinard. I have been an Assistant Professor at the Royal Military College of Canada in Kingston since 2017 and, since 2018, at Queen's University where I teach political science in both official languages.

The Royal Military College in Kingston and the one in Saint-Jean—I am not forgetting you, Mr. Rioux—are the only postsecondary institutions in the country that are subject to the Official Languages Act. This means that implementing the act is part of my daily life and I can see the successes, the occasional difficulties, and perhaps even certain failures in my place of work.

Nevertheless, the goal of my remarks today will not be to talk to you about the sometimes difficult relationship between the Canadian Armed Forces and their linguistic obligations. Rather, I will be talking to you about the way in which my research expertise can shed light on the possible reworking of the Official Languages Act.

My research expertise is in the relationship between the law and the minorities. I am a political scientist who specializes in language right, which is not as strange as it seems at first sight. I am basically interested in the impacts of language rights, both clear and hidden, from a sociopolitical perspective.

The major question that has guided my research in recent years is this: to what extent has the judicial system shown itself to be up to the task, or not up to it, of responding to complaints from minorities, especially the country's language minorities? What have been not only the advances, but also the limitations, of those language rights, including the Official Languages Act, in addressing the claims of Canadians who belong to official language minority communities?

In that context, I have studied the case law on language rights in Canada in depth, as well as its effect on public policy. One of my principal observations is that we are beginning to reach the end of the logical interpretation of the Canadian language rights system. That goes for the Official Languages Act as well as for sections 16 to 23 of the Charter.

Those legislative texts and the interpretations of them that judges have provided, as liberal and generous as they have been, no longer respond to the aspirations of the official language minorities in the country. Those aspirations not only include a request for autonomy and empowerment at community level, but also a profound desire to participate in the life of the state. While official language minority communities, especially francophone ones, have resolutely turned to the courts for justice in recent years, the Official Languages Act and the way the Federal Court interprets it have simply not met their expectations.

One of the reasons is certainly, as the Gascon decision has highlighted, the problem of the effective implementation of the Act, especially with regard to Part VII. Other reasons, in my view, are first, the notorious reluctance of the Office of the Commissioner of Official Languages to go to court since Parliament gave it the power to do so in 1988, and second, that the mandate to hear those cases rests with the Federal Court.

I would therefore like to urge a revision of the mandate of the Office of the Commissioner of Official Languages, and the creation of an administrative tribunal tasked with hearing cases involving allegations that the act has not been complied with.

As you probably know, the Office of the Commissioner of Official Languages has always lacked enforcement power. When it was created in 1969, the commissioner's position was seen like that of an ombudsman, with primarily the power of persuasion, just like the rest of the act at the time, in fact.

The first version of the act had no legal recourse. Parliament partially remedied that shortcoming in 1988. Bill C-72 still provided the commissioner with no power to issue orders. This means that the results of an investigation showing non-compliance with the Official Languages Act could be ignored, but it did guarantee the executive nature of some parts of the act. This executive nature was enhanced in 2005 with Bill S-3, but, as we now know, it did not have the desired effect.

From 1988, the ombudsman role for the Office of the Commissioner of Official Languages became intermingled with a policing role, to some degree, and the Federal Court acquired the job of punishing non-compliance with the act. Although, from then on, some provisions of the Official Languages Act could result in legal proceedings once a complaint was submitted to the commissioner's office, that possibility has always been considered one of last resort.

In 1988, D'Iberville Fortier, the commissioner at the time, seemed to be very reluctant to go to the court route, a discretionary power that was after all not clearly defined in the act, and this tradition has continued to this day. The cases that the Office of the Commissioner decided to take to court itself are few and far between. It prefers to seek intervener status in cases brought by individuals or civil society groups before the Federal Court.

•(1210)

However, as early as 1988, people spoke up not only to make the entire Official Languages Act enforceable, but also to call for an administrative tribunal for language rights. This was the case with the *Fédération des francophones hors Québec*, now the FCFA. The federation is still calling for such a tribunal, according to the bill it published a few weeks ago.

The reasons are quite simple. It would be easier for Canadians to access such a tribunal than to access the Federal Court. There would be more sanctions for direct violations of the act than decisions based on fundamental legal principles, which are more common in the Federal Court. In my opinion, such an amendment would give renewed meaning to the Official Languages Act, both for Canadians and for the political institutions that must comply with it. Some could finally obtain orders for non-compliance with the act, and others would finally have a tangible incentive to commit to respecting official languages. These incentives clearly seem to be lacking in the current system, which advocates a carrot and stick approach, as evidenced by the many naughty students found year after year in the Office of the Commissioner's investigation reports, some of which were mentioned earlier.

There is already a language regime in the world with a commissioner's office and a language administrative tribunal. It's in Wales. Both entities were created by the Welsh Language Measure, a law passed in Cardiff in 2011 to replace the Welsh Language Board. The board was established in 2012 and the tribunal was established in 2015. I know that Commissioner Meri Huws was invited to testify before this committee a few days ago. I hope I am not breaking parliamentary decorum. We can mention a person who's not in the room, right?

Ms. Huws testified before you at the end of March. You specifically discussed the difference between her role and that of the Office of the Commissioner of Official Languages of Canada, and the place of the language tribunal in Cardiff. I don't know whether the meeting with her gave you an idea, but I would like to invite you to take that model as a counter-example. The role of the Welsh Language Commissioner is both to investigate and to punish. Commissioner Huws is both judge and jury when she has to investigate complaints from the public.

The tribunal, on the other hand, has the role of hearing appeals against the Office of the Commissioner's decisions. Individuals or companies sanctioned by the commissioner for non-compliance with the status of the Welsh language can therefore appeal its decisions to the tribunal. In other words, the tribunal is not responsible for ensuring that violations of the Welsh Language Measure are punished, but rather for monitoring the actions of the office that is responsible for the punishment.

I would urge you not to emulate that example. Not only does it duplicate the role of the commissioner, a duplication that is already causing difficulties in Canada at this time, as we have seen over the past 30 years. It has also fostered conflict among parts of Welsh civil society towards the position of commissioner by implying, through the creation of the tribunal, that oversight of the office is necessary to avoid excesses. No officer of the Parliament of Canada is overseen in this way.

I think the Wales experience indicates that it would be wiser to let a tribunal, an entity considered neutral from the point of view of official languages, order sanctions following investigations by the Office of the Commissioner. As a result, the Commissioner of Official Languages of Canada would retain his role as ombudsman and investigator, and the punitive role would be assigned to the administrative tribunal set up to hear cases dealing with the various parts of the Official Languages Act that are binding. The Federal Court could certainly be given a role as a court of appeal for decisions of the administrative tribunal.

It goes without saying that the Office of the Commissioner's mandate should also be revised to specify when the Commissioner of Official Languages should take legal action and submit evidence in court, rather than leaving the decision to the discretion of the commissioner. A review of the Official Languages Act could therefore give new impetus to the Office of the Commissioner in its promotion and investigation roles, and impose a presence before the courts to ensure that its evidence and diverse knowledge of official languages, particularly with respect to recurring complaints and systemic problems, are useful to the proposed tribunal.

• (1215)

Thank you very much. I will give the floor to my colleague, Mr. Jedwab.

The Chair: Thank you very much, Ms. Chouinard.

Mr. Jean Rioux: Can you provide us with the text?

Ms. Stéphanie Chouinard: Yes, I would be happy to do that.

Mr. Jean Rioux: Thank you.

The Chair: We'll include it in the transcript of the evidence.

[*English*]

Now we'll proceed with Jack Jedwab.

[*Translation*]

Mr. Jack Jedwab (President and Chief Executive Officer, Immigration and Identities, Association for Canadian Studies and Canadian Institute for Identities and Migration, As an Individual): Good afternoon.

Thank you for inviting me. I am very pleased to share my observations and recommendations on the modernization of the Official Languages Act.

I will begin by setting out a series of principles and providing our vision of the current state of official languages.

I am very proud to be part of the bilingual community in Canada. There are just over 6.2 million of us. My wife, four children and I are proud members of this bilingual community and we are looking for

other members. We welcome all those who wish to be part of it with open arms.

Since the 1970s, Canada has been clearly undergoing a demographic revolution. This is largely due to immigration, but also to changes in the birth rate. The country we currently live in does not look exactly like it did in the 1970s. I know that because I was there. I remember the fabric of the country. There has been a significant evolution.

There have also been changes in discourse and policy on bilingualism issues. I remember that, after the Official Languages Act was passed, Canada's multicultural policy was implemented in 1971. I guess some of you remember that too. We have always talked about multicultural policy in a bilingual context. Then changes occurred and, in the 1980s, the focus was more on multicultural diversity, which is part of linguistic duality, the two official languages, and less on bilingualism.

• (1220)

[*English*]

We don't talk as much about multiculturalism within the bilingual framework but more about multiculturalism within the context of language duality, or with the predominance of two official languages. We've seen a shift in that area in large part, I think, to line up against our changing demographics or uneven geographic distribution of French and English speakers, and the degree of bilingualism to which that unevenness has given rise.

[*Translation*]

Just over 80% of our population... I'm sorry, it's probably a nightmare for interpreters when I switch from one language to another. I'm sorry, but that's how—

Mr. Bernard Généreux: You are speaking quickly too.

Mr. Jack Jedwab: I'm used to speaking very quickly. I'll try to slow down.

[*English*]

The majority of the country, about 80% and a little bit more, is actually unilingual, unable to speak both official languages. They may be bilingual or trilingual in other languages, but in terms of our understanding of bilingualism officially, the vast majority is unilingual.

The 18% of us who are bilingual are the ones who get more attention. We're more the object, if you like, of the critical mass of people we'd like to expand through various programs, through our laws and through the policy delivery mechanisms and programs in place to effect those changes, notably in the education system, which is a provincial jurisdiction, as we know.

We also know that the concentration of our bilingual population is largely in Quebec, Ontario and New Brunswick, and again, it isn't large, given the population of New Brunswick relative to those larger provinces. It's been described as being very concentrated in the bilingual belt, which I'm sure is a term some of us have heard before. I can assure you, the bilingual belt—as I closely follow the demographic trends—has not stretched out very much over the years. My belt has stretched out over the years, but not the bilingual one.

If Canada can describe itself today, as it likes to do, as a bilingual country, it is largely a function of the concentration of bilinguals in those three provinces, and more specifically, in the area I've just described. At best, we can describe ourselves as a bilingual country from a *de jure* standpoint, not so much from a *de facto* standpoint, given the percentage of people who are bilingual.

In fact, paradoxically, my home province of Quebec can describe itself as more *de facto* bilingual, but not *de jure* bilingual, given the laws in place. This may seem a bit counterintuitive, but it's a function on the one hand of the geographic distribution of language communities in the country, and on the other hand of the predominance, I would argue, of English in North America.

•(1225)

[*Translation*]

Despite the challenges associated with expanding the number and percentage of people who are bilingual, this remains an extremely important objective. We must ensure measures are in place as much as possible to try to improve our percentage and increase the number of people who are able to speak both official languages.

This is important not only in terms of our official languages policy, but also in terms of meeting the needs of people from official language minorities. Linguistic duality has those two objectives specifically: first, to broaden the critical mass of people who are able to speak both languages and, second, to ensure the vitality and continuity of those who identify with official language minorities.

The two objectives are interrelated or interconnected to the extent that, for people who belong to and identify with official language minority communities, it is important to have a critical mass of people who speak the other language as a second language if they want to be able to interact as much as possible in their first language.

In my mind, one of the most important places for achieving official languages objectives and ensuring the vitality or continuity of the language of people from official language minority communities is the workplace. We will need more people in workplaces who are able to speak both languages, in order to allow members of linguistic minorities to interact in their first language.

[*English*]

That's why I suggest, as one example—and there are many—that the two are interconnected objectives, even though we may seem them as disconnected on some level, in terms of the way the law and the policies and programs are offered, formulated and delivered.

Let me quickly go through three other points. Regarding public opinion and messaging, we're all quite sensitive to public opinion surveys. We see battles of public opinion surveys as to where Canadians stand with regard to bilingualism and language minorities. It's very important, I think, in our messaging—not only as thought leaders and elected officials but as reflected in our laws—that we're quite clear and unambiguous about our commitments.

I would say that one of the things that's very important in this area, with regard to language duality, is to remind Canadians that it's a foundational proposition. It's fundamental to our country, its continuity and its cohesion.

It's also fundamental to a variety of programs. Let's take Canadian multiculturalism as an example. We need to be reminded that Canadian multiculturalism is situated within the context of those two official languages. I think that's something that needs to be quite explicit with regard to our Multiculturalism Act, so that there's no ambiguity about such things. I'll go into more detail about that in the question period, if I'm asked.

[*Translation*]

It is not only a need to provide services to official language minority communities. It is a collective responsibility of Canadians with respect to official language minorities. Sometimes, the impression is that it is offered to them, but it should be very clear that it is our leaders' responsibility, and that it must be very clearly written into our laws and policies.

[*English*]

It's also part of the messaging. We need to know via our legislation and other relevant policy documentation that linguistic duality and support for official language minorities is a binding historic commitment to our country. Not doing so can allow some politicians and some pundits to note that there are more Mandarin and Italian speakers in some of our larger provinces—you may have heard this from one of our leaders in my neighbouring province of Ontario—than there are French speakers. Doing so, I think, transgresses the responsibility and commitment that we have as a country to our language minorities.

The language of positive measures, which I talked about in support of community vitality—

[*Translation*]

The Chair: Mr. Jedwab, I have to interrupt you to go to questions from the committee members.

I will ask you to conclude your remarks by answering the questions. I understand that you still have some things to tell us.

We will begin the round of questions and comments.

Let me give the floor to Alupa Clarke.

•(1230)

Mr. Alupa Clarke: Thank you, Mr. Chair.

Good afternoon to both of you, Mr. Jedwab and Ms. Chouinard. I am very happy that you are here.

Ms. Chouinard, I think this is the first time you have appeared before the committee. You said it was an honour and a privilege to be here. I am glad to have given you this honour and privilege, since it was my office that invited you. I have seen all your expertise over the past year.

I wanted to hear what you had to say about the administrative tribunal. You mentioned it during your presentation, but I have a few specific questions.

But first, Mr. Jedwab, I want to tell you that I really liked what you said at the end of your opening remarks on the country's fundamental proposals, namely the two founding peoples and the multicultural environment in which we live. This fundamental proposal must never be forgotten. I agree 100% with this vision of the country.

Ms. Chouinard, I detected a contradiction in your comments that may not be a contradiction. I wanted you to correct or clarify what you said. You said that, since the Charter was enshrined, there has been a liberal and generous interpretation by the Supreme Court with respect to language rights. On the other hand, you said that the Official Languages Act and the Federal Court have not yielded the expected results.

Personally, I see this as a contradiction. Can you elaborate on it, please?

Ms. Stéphanie Chouinard: That's partly because the Commissioner of Official Languages has often hesitated to take legal action. As a result, the Federal Court has not been called upon as often as it could have been. However, I could have said that there was a time when the Federal Court's interpretations were liberal and generous. I am thinking in particular of the Gascon decision, which sort of "cut the legs from under" section 41 of the Official Languages Act.

That is why I made the comment.

Mr. Alupa Clarke: Okay.

You say that the commissioner could have more coercive powers, or rather that he definitely has coercive powers right now, but that he does not always use them.

Do you think we should either strengthen the commissioner's coercive powers or create an administrative tribunal, or do you think we could do both at the same time?

What do you think the best option is?

Ms. Stéphanie Chouinard: In my opinion, it should be one or the other.

If the commissioner is given coercive powers and goes to court, he becomes both the judge and a party to the case at hand. If I had to choose an option, honestly, I might go for the tribunal, if a choice really had to be made.

Mr. Alupa Clarke: We will make the choice. What choice would you make yourself?

Ms. Stéphanie Chouinard: The commissioner would be responsible for carrying out investigations according to what a modernized act would include. It would be his duty to submit evidence to the tribunal, but it would be up to the tribunal to impose sanctions later.

Mr. Alupa Clarke: In your opinion, what are the main benefits of an administrative tribunal?

First, would it be an independent, autonomous tribunal, or would we give responsibility for language rights to the human rights tribunal, for example? Do you envision a completely separate administrative tribunal for official languages?

Ms. Stéphanie Chouinard: Yes. It would be just like the human rights tribunal.

Mr. Alupa Clarke: What would be the benefits of that?

Ms. Stéphanie Chouinard: First, I think Canadians would be much less reluctant to go to such a tribunal than to the Federal Court. Second, if the act mandated the Commissioner of Official Languages to use knowledge—particularly the institutional memory of the Office of the Commissioner of Official Languages regarding certain naughty students who shall remain nameless, but whom you all know—and documentation as evidence in court, this would give new strength to the Official Languages Act.

This would send a tangible message, particularly to those naughty students, but also to all federal institutions, that the Official Languages Act is to be taken seriously and that there will be consequences for non-compliance with the act.

Mr. Alupa Clarke: There is a lot of talk about the wording of the act and replacing the word "may" with "must". That's interesting and it would be very good, but I have concerns about part VII and the impact it might have on the British North America Act and the separation of powers.

Do you think that this change of wording from the word "may" to "must" should also be done in part VII, while fully respecting the areas of jurisdiction?

Ms. Stéphanie Chouinard: That's a good question. The federal government could still remain humble and stay within its own jurisdiction, even if the wording of part VII were changed.

Another way to breathe new life into part VII would simply be for Parliament to create regulations.

Mr. Alupa Clarke: Ah, yes, I heard that. Part IV has regulations, but Part VII doesn't.

Ms. Stéphanie Chouinard: Exactly.

Mr. Alupa Clarke: It's like a body without legs, basically. We have no idea how to make it work.

Ms. Stéphanie Chouinard: Actually, that's what the Gascon decision raised. If a regulation had given some details on the implementation of Part VII, we would have had a different ruling.

As for whether we absolutely must change the text of Part VII, I don't think so. There should be another way to breathe new life into Part VII.

• (1235)

Mr. Alupa Clarke: I have another quick question.

As far as the Commissioner is concerned, when I spoke to other international experts, I noted that there was a lot of room for the idiosyncrasy of the individual in the position. As you said, never has a commissioner brought a case to court. I think I understood that.

Ms. Stéphanie Chouinard: I wouldn't say "never", but it's rare.

Mr. Alupa Clarke: It's been rare.

The Chair: Allow me to interrupt, but the bells are still ringing, and I must have unanimous consent to proceed. You see the lights going on: that is calling us to vote.

Ms. Stéphanie Chouinard: Yes, I'm familiar with the concept.

The Chair: So I must have unanimous consent to continue. Are you in agreement?

Some hon. members: Agreed.

The Chair: Mr. Clarke, your time has just expired.

We'll now go to René Arseneault.

Mr. Alupa Clarke: I was finishing my question. May I wrap up quickly, please?

The Chair: Okay, go ahead.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Me too, I want eight minutes.

Mr. Alupa Clarke: Shouldn't the act be changed with respect to the Office of the Commissioner so that the individual in office doesn't always make decisions in a discretionary manner, as he or she sees fit? Shouldn't the act tell the Commissioner that he or she must do this or that every time?

Ms. Stéphanie Chouinard: Yes. One way to make this a little more effective is to require the Office of the Commissioner to present its evidence in court.

I don't want to take up time by giving you a longer answer.

Mr. Alupa Clarke: Thank you very much.

The Chair: Thank you, Mr. Clarke.

We'll move on to René Arseneault.

Mr. René Arseneault: Thank you, Ms. Chouinard and Mr. Jedwab.

We don't have enough seven minutes, or even eight minutes in my case, to ask all the questions we'd like to. I have one of each of you. I'll start with Ms. Chouinard. I'll proceed quickly.

I speak very quickly, too, Mr. Jedwab.

Mr. Jack Jedwab: That's fine; I understand everything.

Mr. René Arseneault: At the beginning of everything, I thought the way out to optimize language rights was the administrative tribunal. We have heard here from the only provincial Commissioner of Official Languages, the one from New Brunswick. He was testifying with Mr. Boileau from Ontario. They told us that they were not fond of an administrative tribunal, because the whole burden of such a tribunal rests on the litigant, the one who wants his or her rights recognized. A court requires lawyers. Some will say that this is not necessarily the case, but it requires preparation, it is complicated and it is lengthy. People give up. This discourages them from doing so.

As you said earlier, we heard from the Commissioner for Wales. It was an incredible breath of fresh air.

This is the basis for my thinking, which leads me to my question.

First, I think that the administrative tribunal itself is not the solution, but part of the solution. I would like to add to what Commissioner Michel Carrier of New Brunswick and Commissioner Boileau told us: first, the act must be clear and subject to such little discretion or interpretation that it does not lead to legal debates in the Federal Court or elsewhere. We must therefore strengthen this legislation, give it teeth and make it clearer.

Second, I liked that commissioner for Wales, who told us that only 13 of her decisions had been brought before the court. In each case,

the only person who can use the administrative tribunal is the company that represents the state. It is never the litigant who has to use lawyers and put up with lengthy delays to get to court.

Tell me what you think about the following. Beyond its role as investigator, should the Office of the Commissioner also be given the power to make decisions and impose sanctions, by means of an independent service, which could be called the litigation service, or whatever? Then, the Crown corporation, or anyone who does not respect language rights, would be allowed to go to the administrative tribunal.

What do you think? First, the act would be clarified; second, an administrative tribunal would be created that would be somewhat similar to the one in Wales.

Ms. Stéphanie Chouinard: Thank you very much for your question, Mr. Arseneault.

First, with respect to clarifying the act, I haven't been on the Earth for 50 years, but based on what I know from previous parliamentary debates on language rights in Canada, there has always been a compromise measure. Often, the legislator has decided to leave certain sections of either the charter or the act vague in order to make it easier to understand. We are aware of that.

• (1240)

Mr. René Arseneault: Yes. It was because of a lack of political courage on the part of all successive governments. I dare say it.

Ms. Stéphanie Chouinard: It would certainly be a challenge to make the act as clear as possible, but it will be your challenge as legislator.

Mr. René Arseneault: Yes.

Ms. Stéphanie Chouinard: As for the other aspect, it is true that, on the one hand, the creation of a tribunal where individuals are responsible for reporting would weigh heavily on their shoulders, but on the other hand, it would allow them to report without having to go through the Office of the Commissioner of Official Languages. An individual who believes that his or her rights have been violated would have another remedy if the Commissioner decided not to investigate for reason A, B or C.

The court challenges program could also be used.

Mr. René Arseneault: The power to investigate and impose sanctions exists already. For instance, the Human Rights Commissioner uses it. In any case, in New Brunswick, we use it because we have the equivalent. I don't know what the legislation is at the federal level. However, having been a lawyer, I know that during investigations, the complainant is held by the hand and supported. The complainant doesn't have to worry about wasting time, paying lawyer and knowing the legislation before going to court.

What I see is a first step. The Commissioner plays this role, takes complainants by the hand, informs them of their rights by telling them whether they are right or wrong, and decides on sanctions. The Commissioner told us that she had never had to impose sanctions in the form of fines or money. Rather, she required a report indicating how the affected party was going to comply with the legislation. This is cumbersome and tiring for the person or Crown corporation being asked to do it.

Ms. Stéphanie Chouinard: All right, but there is one thing missing from this equation. These are the Welsh language schemes, which are developed in conjunction with the Welsh language commissioner in each of the institutions. Nowhere in the Official Languages Act is such a thing currently found. I didn't see anyone suggest it, either.

So, based on the text of the Welsh Language Act, each of the institutions must sit down with the Welsh language commissioner and say how it will meet its obligations. In the end, each of the institutions is a kind of roadmap.

Mr. René Arseneault: That's right.

Ms. Stéphanie Chouinard: That would also be something to consider, if you want to follow Wales' example.

Mr. René Arseneault: Thank you, Ms. Chouinard.

I still have 30 seconds, Mr. Chair. I'll do like the others: I'll stretch it out.

Mr. Jedwab, from a sociological point of view, how can you explain that, in a country that has existed for 151 years, but where language rights have existed for 50 years under the Official Languages Act, our society doesn't exhibit the pride of having official languages that reflect our patriotism, that are part of our existence and that flow in our veins?

Mr. Jack Jedwab: Personally, I think there is too much timidity in the discourse, if we consider our country's history and evolution.

We have had another era when we were ready to violate the rights of minorities, as they had been conceived in contemporary society. The situation was rectified in the 1970s and 1980s, but there is still a timidity that prevents us from moving forward and being very clear about our collective responsibility towards linguistic minorities. That is the explanation I propose. I'm not saying that around this table we are timid, but there were times when we were. There was concern about the critical masses in some provinces and about unilingual people who felt they were disadvantaged compared to bilingual people. This makes elected officials a little timid.

We also see that some elected officials have the opportunity to exploit people's anxiety or insecurity about the situation for political purposes. This is currently the case in New Brunswick. I would like to mention, with great respect for the Premier of Ontario, that we also saw a case where he was willing to see what people's reactions would be and to exploit their concerns and insecurity about a right that we should recognize, namely access to services for the francophone minority. This should be recognized as a right, not as a favour or privilege granted to this minority. Too many thinkers claim that we are doing these minorities favours or services, rather than insisting that it is a right.

The Chair: Thank you very much, Mr. Jedwab.

I'll now give the floor to Mr. Choquette.

Mr. François Choquette: I would like to thank both of you for your presentation. It's really very rewarding. This is allowing us to continue our reflection on the modernization of the Official Languages Act and our report, which will come eventually.

My first question is for Mr. Jedwab.

You mentioned the importance of continuing to increase the number of people in the bilingual community, that is, people who speak both French and English. You also mentioned that our identity profile is changing. It has changed a lot over the years. Some people are bilingual, but do not necessarily speak French and English.

Perhaps you were here earlier when the Commissioner mentioned that it would have been important for a forum of federal, provincial and territorial first ministers to be held to highlight this linguistic duality, to encourage people to celebrate it together and to reach out to people who speak both official languages.

What do you think? Do you see other ways to promote Canadian bilingualism?

• (1245)

Mr. Jack Jedwab: I think it would be quite difficult to bring our first ministers together at a meeting. For some of them, their interests are more related to their geography and demographics. They have their respective constraints. However, there are many organizations and thinkers across Canada who would be willing to celebrate and commemorate—we will see this year—the progress made in terms of linguistic duality and bilingualism. Despite the timidity I mentioned, the fact remains that significant progress has been made. We highlight the important progress we have made and agree on what needs to be built together.

I will quickly give you a more concrete example, if I may. I have the opportunity to do a lot of analysis of our censuses. We are pleased that immersion schools are so full that people have to wait to enrol their children. However, despite the significant investments that have been made in immersion, we very often see, particularly outside Quebec, that after about 10 years, people who have learned French as a second language significantly lose their ability to speak both languages because they don't have enough opportunity to interact in the second language. This is reflected in the census.

Mr. François Choquette: There you go.

Mr. Jack Jedwab: As we say in English

[*English*]

"Use it or lose it".

[*Translation*]

Mr. François Choquette: That's why it's important to have and support vibrant communities across the country.

Ms. Chouinard, you talked about the Commissioner's power to appeal to the Federal Court. You said that it rarely did so and that it mainly joined appeals filed by citizens. This is an important point, but one thing worries me, even before that, and that is the Commissioner's power to investigate. Let me explain. The Commissioner has very elaborate investigative powers. He has the power to demand documents, appearances and explanations. However, to my knowledge, he very rarely does. For my part, I have filed several complaints with the Office of the Commissioner and I see that, despite the scope of his investigative powers, the Commissioner requests things that are denied him or for which he does not receive a response. Why, in these cases, did he not use his investigative powers?

I wonder, even before considering going to the Federal Court, whether the Commissioner's investigative powers should not be strengthened. In fact, it isn't a matter of strengthening this power, since it already exists, but of strengthening the Commissioner's obligation to investigate properly.

Ms. Stéphanie Chouinard: Thank you for the question.

I think that you're absolutely right. I think that your question is along the same lines as Mr. Clarke's question earlier regarding the commissioner's powers. One issue may be the lack of resources at the Office of the Commissioner. In particular, I know that the Office of the Commissioner has been conducting very little research recently, and that there used to be an entire unit responsible for research. It has reached a point where the commissioner calls on people like us on a fairly regular basis when he wants to take stock of research. I think that this shows a need within the organization.

On the other hand—and Mr. Clarke also raised this issue—at this time, many things depend on the commissioner's personality. The most recent commissioners weren't legal experts. The Office of the Commissioner may not have learned how to use these powers. The powers are set out in the act, but they aren't applied to the fullest extent possible.

• (1250)

Mr. François Choquette: I'll now move on to my last question.

You said that the commissioner should be required to appeal to the Federal Court in certain circumstances. Could you provide examples of these circumstances?

Ms. Stéphanie Chouinard: An example would be a repeat offender institution.

Mr. François Choquette: Okay.

Ms. Stéphanie Chouinard: That's the first example that comes to mind.

This isn't a baseball game where we can remove a player after three strikes. That's not how it works.

The Office of the Commissioner of Official Languages' reports show that, from year to year, the same organizations or institutions act with complete impunity and consistently fail to comply with the Official Languages Act. This is a fundamental issue.

Mr. François Choquette: Thank you.

The Chair: Thank you, Mr. Choquette.

Ms. Lambropoulos will share her speaking time with Mr. Samson.

Mr. Samson, you have the floor.

Mr. Darrell Samson: Thank you for your presentations, Mr. Jedwab and Ms. Chouinard. It's always good to hear different points of view.

Ms. Chouinard, I want to congratulate you on your good research work. I think that research is key because it helps pave the way forward by highlighting the issues and suggesting solutions.

You just mentioned the commissioner's reports. The commissioner informed us earlier that federal institutions have been implementing his recommendations very easily in 30% of cases and have been

taking a little longer in 50% of cases. However, 20% of complaints remain difficult to resolve, and you just referred to them.

I asked for more information regarding these complaints and the relevant institutions. Do you have any comments?

Ms. Stéphanie Chouinard: Do you want me to name institutions? I'm not sure whether I fully understand your question.

Mr. Darrell Samson: I want some examples of the ongoing issues underlying 20% of the complaints that remain difficult to resolve.

Ms. Stéphanie Chouinard: One of the most obvious examples is Air Canada. I also want to point out that, in Air Canada's case, the use of the courts didn't have the desired effect. The Supreme Court of Canada upheld the Federal Court of Appeal's decision to set aside the damages awarded by the Federal Court to Mr. Thibodeau for the violation of his language rights on one of his flights. Air Canada has trouble fulfilling its official languages obligations.

I should point out that I've never had any trouble getting service in the official language of my choice from the other carriers. I'm thinking in particular of VIA Rail trains, on which I often travel all year round.

Mr. Darrell Samson: Okay.

You spoke earlier of the judges' liberal and generous interpretation in a number of language cases, and the more restrictive approach of some courts. I think that the case you just mentioned is an example of a restrictive approach.

It's almost impossible to include all the possible scenarios in the act. Whenever the act must be interpreted, there will always be discrepancies and issues raised. That's why I've always liked the fact that the Supreme Court seems to interpret the act much more liberally. The Supreme Court avoids listing all the authorized scenarios. It prefers to specify the two or three prohibited scenarios, and it therefore implies that all the other scenarios are valid. It's a somewhat different approach.

The risk in both Canada and the United States is that judges are appointed by the government in power. Some of the judges may be much more liberal or, on the contrary, much stricter in their interpretation. This can create issues. There's no doubt that our linguistic minorities have always been well served by the courts to date. However, do we use the courts too often? It's possible. Perhaps our legislation could use some reinforcement. What do you think?

• (1255)

Ms. Stéphanie Chouinard: I think that you're referring to the chicken and the egg paradox. Official language minority communities often use the courts. However, do they have a choice?

Like Mr. Jedwab, I'll refer to the current situation in Ontario. I know that the Assemblée de la francophonie de l'Ontario is looking at taking legal action to fight the elimination of the Office of the French Language Services Commissioner. It tried to engage in dialogue with the legislator, but the legislator turned a deaf ear. At this point, an avenue of recourse is needed, and that avenue is the courts. There aren't many alternatives.

The Chair: Thank you, Mr. Samson. Your time is up.

We'll finish with Ms. Lambropoulos, who has two minutes.

[*English*]

Ms. Emmanuella Lambropoulos: Mr. Jedwab, you spoke a lot about how bilingualism would help minority communities and how being more open to speaking both languages would obviously help the vitality of these communities. However, obviously it's not that easy.

I'm an anglophone from Quebec, and in Montreal both languages are spoken quite regularly; a lot of people speak English in Montreal. However, in other areas like Quebec City, Trois-Rivières and other cities across Quebec, these languages are not spoken, and they're not encouraged as much either. The government, such as the one that has been elected, barely has any seats in Montreal, so not much of their political capital is there. How can we help maintain these communities in these other areas? For example, the abolition of school boards will mainly affect the English-speaking minority.

In what ways do you think the federal government can act to help this situation, when obviously the people's voices won't necessarily be heard?

Mr. Jack Jedwab: I think there are challenges associated with advancing the condition of some of those communities, particularly the ones outside Montreal. There are also challenges for English speakers in Montreal, as we know. Again, these are all connected to the politics and jurisdictional disputes and respective interests of some of the elected officials as they determine that protection of French, which is a valid objective in Quebec, is in some ways threatened by the presence of the English language, and the communities that express themselves in that language. We've seen episodes of how that plays itself out.

I know the time's limited. The best way the federal government can help, in that there are administrative arrangements and

understandings we know about.... One example of this is immigration. If you're an English-speaking immigrant and you come to Quebec, the extent to which you'll be recognized as such by the Government of Quebec is challenging, because of these administrative arrangements that everyone seems reasonably comfortable with not shaking up. The federal government can offer more resources in those areas to assist those communities in various ways to secure and continue to operate in their language without necessarily contravening the jurisdictional issues for Quebec.

One of the ways I was going to suggest to help communities in general is with investing considerably in technologies, at least as far as federal services are concerned, and ensuring that our technologies, which are going to increasingly be areas where people secure services, are provided in both English and French as widely as possible. This way, the geographic situation you find yourself in is at least in part remedied by our ability to furnish services. I want to ensure that my robots are bilingual. I think it's very important that my voice assistants, even though they pronounce "chemin Décarie" very badly, be able to communicate effectively in both languages.

As a country, we must invest considerably in ensuring that we maximize the opportunity for communities, given their geographic circumstances, to benefit to the best degree possible from the technologies that will in future provide a lot of services that would otherwise not be provided that way.

● (1300)

[*Translation*]

The Chair: Thank you, Mr. Jedwab and Ms. Chouinard, for your presentations and for the insight that you provided to committee members.

I want to thank you on behalf of everyone.

We'll now adjourn, and we'll continue our work at our next meeting on Thursday.

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