



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Official Languages

LANG • NUMBER 122 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, November 27, 2018

Chair

The Honourable Denis Paradis

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● (0850)

[Translation]

The Chair (Hon. Denis Paradis (Brome—Missisquoi, Lib.)): We are continuing our study on the modernization of the Official Languages Act pursuant to Standing Order 108(3).

This morning we are pleased to welcome Mr. Michel Doucet.

Welcome, Mr. Doucet.

We will proceed as usual. You have about 10 minutes for your presentation, and then we will have a round of questions and comments.

Mr. Doucet, we are listening.

Mr. Michel Doucet (As an Individual): Thank you very much, Mr. Chair.

First of all, I want to thank the members of the committee for inviting me to speak today on the important plan to amend the Official Languages Act of Canada.

When you live outside the city of Ottawa and the province of Ontario, and especially when you live in the Atlantic provinces, you often get the impression federal government bodies have forgotten you. It's also something of a surprise and a joy to receive an invitation to come and speak to you.

I don't intend to speak for too long because I prefer to answer your questions.

However, I will take the liberty of making a few opening remarks and outlining some ideas for amending the Official Languages Act.

As you know, the Official Languages Act was passed in 1969. Mr. Samson and I were there at the time, and we remember it well. We were also there when it was replaced in 1988—Mr. Arseneault wasn't yet born—by a new act inspired by provisions of the Canadian Charter of Rights and Freedoms, which was adopted in 1982, more specifically by sections establishing the principle of the equality of status of English and French—section 16—and guaranteeing the right to be served by federal institutions in the language of one's choice—section 20.

The act thus provided for a scheme to implement the provisions of the Charter, and the official language minority communities received it favourably at the time. Should it be amended today? Probably, because I think statutes should be regularly revised in response to changes in society. Should we start over from scratch? I don't think

so. The foundational aspects of the 1988 act are still sound. In my view, improving it and clarifying some of its parts so they meet the needs of Canada in 2018 would be enough.

I would emphasize, however, that the act cannot be a response to all the problems and challenges facing the minority communities. We live under a federal system in which the provinces have certain exclusive jurisdictions. If we don't want to wind up in endless court battles, we will have to respect the division of powers between the federal and provincial governments, while guaranteeing the development and vitality of the official language minority communities.

That being said, it's essential that the provinces also shoulder their responsibility to protect the official language minority communities, particularly the francophone communities outside Quebec. We shouldn't give the impression that official languages issues are solely a federal government responsibility. Provinces such as New Brunswick must fully accept their responsibilities in this field.

I'm aware that, in light of current events, it's hard to imagine the provinces agreeing to play their role, but we also don't believe the federal government can solve all problems with a single statute.

I have a list of amendments and subjects that could be addressed in the new act, and I'm going to touch on them briefly. Given the time allotted to me, I prefer to answer your questions.

I obviously want to revisit the bilingualism of judges at the Supreme Court of Canada. Subsection 16(1) of the act should be amended, but that won't be enough. Section 5 of the Supreme Court Act, which concerns the composition of the court, must also be amended.

Since I'm a lawyer, I would emphasize that there should be an assessment of the ability of judges and the courts to speak both official languages. A self-evaluation is currently done by candidates for judicial appointments, and we know it's often inadequate.

Equal weight should also be assigned to decisions rendered in both official languages.

I submitted a suggestion several years ago, but I want to take another look at it. I'm talking about statutory protection for the Court Challenges Program.

I recommend that another amendment be made respecting the implementation of specificity. I would like to clarify a point here. I've obviously read the briefs submitted by the Société de l'Acadie du Nouveau-Brunswick requesting that the specificity of New Brunswick be recognized in the Official Languages Act. I must admit I see problems ahead as a result of that request. If the Official Languages Act is to recognize the specificity of all the provinces, the process will be endless. However, this could be done by regulation.

I believe an amendment was recently made to the regulations on the provision of services in both official languages recognizing that there must be an active offer of service wherever a minority school is located. We could go even further. The federal regulations on specificity should also acknowledge the specificity of the provinces.

In other words, I don't understand—I had to go to the Supreme Court of Canada to compel the Royal Canadian Mounted Police to discharge its linguistic obligations in New Brunswick—why the federal government wouldn't acknowledge that the active offer of service exists on a de facto basis across New Brunswick given that New Brunswick has decided to extend its obligations to include the entire province. We can do the same in Ontario and recognize that an active offer exists in the regions designated by the French Language Services Act.

Next, we must specify what is meant by "positive measures" in part VII of the act. I don't like people telling me that a positive measure is anything that isn't negative; that's not enough. We should define by regulation what we mean by positive measures.

● (0855)

I'll be prepared to answer questions on this aspect since I brought the lawsuit in response to the cancellation of the Court Challenges Program. In my view, the federal government's lawyers had quite an odd interpretation of positive measures, but we can come back to that.

With respect to the powers of the Commissioner of Official Languages, we obviously have to discuss the creation of a language rights tribunal. Contrary to what you might think, this isn't a new idea. It was previously proposed by Victor Goldbloom when he was Commissioner of Official Languages and revived several times in the 1990s. Having sat on the Canadian Human Rights Tribunal, I don't understand why the Official Languages Act couldn't provide for a similar system in which the Office of the Commissioner of Official Languages would be responsible for conducting investigations but would refer to the language rights tribunal cases in which it couldn't secure the cooperation of federal institutions. The tribunal would have the authority to issue enforceable orders, as does the Canadian Human Rights Tribunal.

So these are the amendments in question. There are others, which we can come back to during our discussion.

Canada will be celebrating the fiftieth anniversary of the Official Languages Act this year. The rights recognized under this quasi-constitutional act are fundamental rights rooted in our commitment to equality and respect for minorities.

However, these values are unfortunately questioned by certain governments, and I would remind you here that the Government of Ontario is not the only one. Although the situation of New

Brunswick is less compelling and discussed less extensively at the national level, it's also a cause for concern, even though language rights there are attacked in a less visible fashion.

Sometimes I would like the Office of the Commissioner of Official Languages of New Brunswick to be abolished because that would mobilize more people. In recent years, we've observed a troubling decline in political commitment to language rights in New Brunswick—by all parties, and I'm not playing politics here. Of course, the rise of the People's Alliance on the political stage increases that concern.

The principle, object and nature of language rights are now well established. I agree with the remarks my colleague the Honourable Michel Bastarache made before the committee when he said it was unacceptable that we should have to appear before the courts in 2018 to assert language rights that have been recognized for 50 years.

Furthermore, as the three decisions in 1986 showed, the courts don't have a consistent approach either. We shouldn't take it for granted that they'll always interpret our rights generously. That's why, today, we should build on the gains we've achieved in recent years.

Sometimes I feel we spend our time reinventing the wheel, constantly fighting, again and again, the same battles we thought we had won. There comes a time when you wonder whether there really is a political will to implement language rights. I even wonder whether a revised Official Languages Act, even the best one in the world, will change anything in this state of affairs if there's no political will to implement these rights.

What has to be changed in Ottawa and in certain provinces is the majority perception of linguistic equality. In other words, language rights are not merely the business of the minorities; they are also the business of the majority, whose perception must be changed. Unfortunately, that change will come from neither an act nor the courts; it will come from a political message and the political commitment of all political stakeholders.

Thank you for your attention. I'm ready to answer your questions.

● (0900)

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

Let's begin our round right away with Mr. Clarke.

Mr. Alupa Clarke (Beauport—Limoulu, CPC): Thank you very much, Mr. Chair. I'm always honoured to start the rounds of questions.

Mr. Doucet, we are pleased to have you here with the committee. On behalf of the members, I would like to thank you for your lifelong commitment to official languages.

Mr. Michel Doucet: It's a cause I've been advocating since I was about 15 years old. So it's been 48 years.

Mr. Alupa Clarke: Precisely. I've heard good things about you, of course.

Getting right to it, would you prefer to have an administrative language rights tribunal established or coercive powers granted to the Commissioner of Official Languages?

Mr. Michel Doucet: I'd prefer an administrative tribunal over coercive powers granted to the Commissioner of Official Languages, who has a special relationship that he must maintain with the federal institutions. It would be difficult, in a way, to grant the commissioner the power to impose penalties, while asking him to retain that special relationship through which he can encourage the institutions to rectify matters in certain situations.

I'd obviously prefer to see a tribunal with experts who can assess the situation, as is the case with the Canadian Human Rights Tribunal. However, the commissioner's powers will have to be increased if the tribunal option isn't adopted. The commissioner can currently make recommendations, but, unfortunately, those recommendations very often don't result in the expected changes.

Mr. Alupa Clarke: I'd like to take a closer look at the tribunal issue with you. I'm very pleased to see that you sat on the Canadian Human Rights Tribunal.

Mr. Michel Doucet: I did so for 10 years.

Mr. Alupa Clarke: Excellent.

How does it work when a tribunal decides to order a department or central government organization—not an individual—to pay a monetary penalty or pay back funding? Several people have told me it makes no sense to compel a department to pay penalties to the government.

Mr. Michel Doucet: It worked very well on the Canadian Human Rights Tribunal, which could make an order when a department or federal institution was found guilty of violating the Canadian Human Rights Act.

It could be an enforceable order requiring the institution to make a particular change or establish a program to increase officials' awareness of the requirements of the act by a certain date. Furthermore, if the tribunal found that the department had taken action that caused the complainant to lose money, it could issue an order to that effect and require the department to compensate the individual for the loss suffered as a result of the violation of his or her rights. The tribunal also had the option of ordering payment of punitive damages for psychological injury to the person as well as non-monetary damages.

That's what's done at the Canadian Human Rights Tribunal. It doesn't award damages in all cases, but it has the power to do so where it finds the institution has clearly failed to discharge its obligations. That may seem odd, but it sends a very strong public and symbolic message. I believe the message is clear when an institution is directed to pay punitive damages.

Mr. Alupa Clarke: Do you remember whether the tribunal has ever ordered the payment of large amounts?

Mr. Michel Doucet: There's a limit. If my memory serves me, for example, the limit for punitive and non-monetary damages is \$20,000 in a single case. However, the amount of damages could be quite substantial in the case of monetary losses suffered by an individual.

The most important thing is not necessarily the damages as such, but rather the fact that the tribunal issues an order. Although some people seem to say an order isn't important, the point in this instance is to connect the parties and compel the institution to correct its

behaviour. The tribunal's order is more than a mere recommendation; the institution is thereby directed to make changes in accordance with a schedule or else be held in contempt of the tribunal.

● (0905)

Mr. Alupa Clarke: I see.

As regards governance, would you prefer that the act be the responsibility of the Treasury Board or the Privy Council?

Mr. Michel Doucet: I'll let someone else answer on the governance issue.

To my mind, what's even more important is that there be the political will to ensure those rights are fully implemented. Whether it be the Privy Council, the Treasury Board, Canadian Heritage or any other organization, the governance issue will change nothing if the will isn't there. The message has to come from above, from the political authorities, who must acknowledge that those rights are fundamental and implement them.

Mr. Alupa Clarke: But that's done in a haphazard way.

What institution would you prefer if a government were less interested in the issue?

Mr. Michel Doucet: In that case, we'd wind up in court.

Mr. Alupa Clarke: What institution would you prefer regardless of the situation? Canadian Heritage has no power.

Mr. Michel Doucet: I doubt the institutions that would have to administer the act would be interested in doing so if the government wasn't interested.

Mr. Alupa Clarke: That's true.

Mr. Michel Doucet: I look at what's happening back home in New Brunswick. As a result of the lack of interest of successive governments, the various departments and institutions aren't very interested in implementing the provincial Official Languages Act. That lack of interest and will infects all political parties.

I think the most important message must come from above, directly from the office of the Prime Minister, who must confirm that this is a fundamental value. If he doesn't deliver that message, you can obviously hope the institutions will ensure the act is implemented, but, if the government doesn't urge the institutions to act and that isn't a priority for it, I doubt it will be a priority for them: they'll do whatever they want.

The perfect example of this is New Brunswick, which has 50 years of official languages history. The province has a very good act, and we have constitutional guarantees, but there's no will to implement that act. Consequently, it'll be impossible to change the public administration culture as long as there's no will.

The Chair: Thank you, Mr. Clarke.

Talking about New Brunswick, now we'll hear from Mr. Arseneault.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Thank you, Mr. Chair.

Professor Doucet, or should I call you Maître Doucet...

Mr. Michel Doucet: That era's over.

Mr. René Arseneault: When I began studying law in 1988, there were a lot of young professors who would eventually acquire national reputations.

Mr. Michel Doucet: You weren't alive in 1969.

Mr. René Arseneault: I was, but I was young.

I like the idea of a language rights tribunal for the reasons you stated. There's increasing talk about splitting off the commissioner's investigative power and giving the tribunal the authority to take coercive measures. I'm going to continue along the lines of my colleague Mr. Clarke.

There are orders and monetary compensation in the human rights field, but how can you establish pecuniary damages in language rights cases? People react and adjust when they're hit in the wallet, but the situation's different here.

Mr. Michel Doucet: It's not highly developed in language rights. To date, we've tried instead to establish the existence of a right and to apply for declaratory orders from the courts. We haven't really evolved on damages for violations of language rights. However, there are damages. You need only think of the Thibodeau affair, in which the damages option was considered, but other problems arose and constituted barriers.

In the Ambulance New Brunswick case, I'm representing two clients who have suffered enormous non-pecuniary loss, but it's an unfortunate situation because we can't obtain compensation. The fact that damages have never been ordered for a violation of language rights doesn't mean it's impossible.

Mr. René Arseneault: I understand that, but do you have a practical idea about how it could be done? This is a start. Let's suppose the language rights issue is put before a tribunal, particularly in a minority setting, tomorrow morning.

● (0910)

Mr. Michel Doucet: You grant it the authority to order damages where the judge deems it appropriate. Damages are not an exact science, like mathematics. You and I are lawyers, and we know that. I'm also an industrial relations arbitrator. I sometimes order damages, and I can tell you it's not an exact science. It depends on the evidence adduced, but also on the way the judge or the person present perceives the evidence.

Case law and tests will have to be established; that much is clear. Little consideration has been given to that in the language rights field to date. Much more attention has been focused on having rights recognized and securing declaratory orders so that rights are honoured, but very few forays have been made into the area of damages. Researchers should perhaps take more interest in this dynamic, in this aspect.

Damages may even be claimed in certain cases under the Canadian Charter of Rights and Freedoms. That's provided for by section 24 of the Charter. Damages may be ordered for a violation of a Charter right, a violation of a linguistic obligation. It can also be done under the Official Languages Act. If you're asking me whether there's a mathematical formula under which a violation corresponds to a given amount of money, as is prescribed in some personal injury cases, I'd say it doesn't exist.

Mr. René Arseneault: That would be a brand new day. A new process should be developed.

Mr. Michel Doucet: Absolutely.

Mr. René Arseneault: There's room for it.

Mr. Michel Doucet: It has to be done. I think we have to be more aggressive now in the remedies we seek.

Mr. René Arseneault: Since time is limited, I'd like to tell you not to hesitate to write to the committee clerk with suggestions and other information you would like to submit to us. That would be of invaluable assistance to the committee.

My other questions are general in nature and don't necessarily focus on the act. We've heard extensive testimony from lawyers. You said that, even though we have the best act in the world, we need to change the perception that language rights in Canada are only a minority concern. That's an important point; it's not insignificant. What do you mean by that, in practice, in the context of the modernization of the act, and what can the federal government do in that regard?

Mr. Michel Doucet: I think it has to ensure that the majority in Canada realizes that recognition of the two official languages is a fundamental value in our federation. It must increase the awareness that people in the schools, universities, social clubs and everywhere else have of this fundamental value, and not merely of the economic benefit it provides. Yes, that's an important aspect, but I'm annoyed at times when people talk to me solely about the economic value of the two official languages. If we had five languages, their economic value would be significant, but we have to ensure that the Canadian population, the majority, understands the importance of the official languages, whether it be for social peace or merely because they exist.

I've worked around the world, and I would find it hard to name a single country where language isn't an important issue. It exists everywhere, and our way of addressing it in Canada has been to recognize the equality of status of the two official languages in our Constitution, the supreme law of the land, and in our Official Languages Act. We therefore have a societal obligation to make the majority understand how important this act is. The federal government must support initiatives and make Canadians understand the importance of official languages, their importance in the school system and the reasons why we have an Official Languages Act.

I believe we've done a poor job of that until now. It's been very poorly done in my province, New Brunswick, which is also yours. Language rights and the Official Languages Act are perceived as solely a minority problem, whereas it concerns everyone, the majority as well as the minority. We don't emphasize that fact.

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

Now we'll go to Mr. Choquette.

Mr. François Choquette (Drummond, NDP): Thank you, Mr. Chair.

Mr. Doucet, thank you for being with us. It's always a pleasure to see you in the Standing Committee on Official Languages.

First I'm going to discuss the Court Challenges Program. I've just learned that you were there when it was cancelled. You suggest it should be included in the act to ensure that situation doesn't reoccur.

Am I wrong? What's your interpretation?

Mr. Michel Doucet: Regardless of whether it's the Official Languages Act or another act, I wouldn't want a repeat of a situation in which the program or policy would be cancelled by a regulatory decision. I think the Court Challenges Program is essential for the communities. I've used it. I led the lawsuit for the FCFA when the Court Challenges Program was cancelled. In my view, that essential program helped develop the right to equality and language rights in Canada. It must be maintained. If we did that by providing for it in an act, a debate in Parliament would be required to abolish it.

• (0915)

Mr. François Choquette: The return to a court challenge program, which, for a while, took the form of a group of experts, is a major victory that you won for Canadians. How did you manage it? Under which part of the act...

Mr. Michel Doucet: We didn't win.

Mr. François Choquette: I see.

Mr. Michel Doucet: We pleaded the case before the Federal Court. We argued, under part VII of the act, that a violation had been committed. Part VII, which had been amended in 2005, had become justiciable in the courts. We pleaded the entire case, but the day before the judge was to render his decision—he had given us a date—the FCFA and the government agreed to establish the Language Rights Support Program, the LRSP.

I don't know whether we won or lost. I've always said it would have been interesting to get our hands on the written decision to see how the judge had interpreted part VII. I hope that will be possible one day. Whether we won or lost, it would have been interesting to see that interpretation. It would have enlightened us as to the scope of part VII.

Mr. François Choquette: More recently, Judge Gascon's decision has redefined part VII. That's not at all how I interpreted it, and I don't think most lawyers, including you, interpreted it that way either.

How do you think we should revise part VII and the conception we have of positive measures? I'm one of those people—obviously, there are others in Canada—who filed complaints about the Netflix agreement. A preliminary report was subsequently prepared, and I think it would've been different without Judge Gascon's decision. As a result of that decision, part VII no longer means anything. We have no say in the matter. The idea now is that, if the communities are consulted, that constitutes a positive measure, and, apart from that, all we can do is fend for ourselves.

Mr. Michel Doucet: I wouldn't say it no longer means anything. We should continue analyzing part VII despite Judge Gascon's decision.

The federal government's argument at the time was that part VII isn't affected by the cancellation of a program, just as a forest is unaffected by the felling of a single tree, and that, if the forest is still living, this can't be a negative measure. At that point, I asked the

judge how many trees had to be cut down before the forest began to disappear and it was too late to save the situation.

I think part VII is essential. You have to define what constitutes a positive measure, and I believe that should be done immediately by regulation and in consultation with the official language minority communities in Canada.

When you say positive measures, we all know what that means, but, at the same time, we don't. This is the kind of provision that causes lawyers to break out in hives. Terms such as "reasonable person" must be defined in order to have content. Those words should be defined in consultation with the official language minority communities because they know best how measures can have a negative or positive impact on them.

Mr. François Choquette: Judge Gascon's decision is under appeal, and, ultimately, the government is also involved in that appeal. We could sit down with the FCFA and the QCGN to define what constitutes positive measures and to establish regulations for part VII.

Mr. Michel Doucet: Exactly. It would be preferable to do that rather than wait for a court decision that defines or doesn't define what a positive measure is.

Appealing Judge Gascon's decision is one thing, but that doesn't prevent the government from finding a solution to define what constitutes a positive measure.

I've seen that too often in my own province, where the government's argument is that, since the matter is before the courts, the government can't touch it. However, I don't accept that argument. On the contrary, I believe that, even though it's before the courts, we can continue working to improve the way we interpret what constitutes a positive measure.

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

• (0920)

The Chair: Mr. Samson, you have the floor.

Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.): Thank you very much.

Mr. Doucet, thank you very much for your leadership in this area and in protecting minority rights. You've always been a major player in this regard, and we still rely on you today.

Mr. Michel Doucet: I'm getting old.

Mr. Darrell Samson: The points you addressed are slightly different from those raised by other witnesses. You touched on similar areas, but you made some points that I'd like to have a bit of fun with.

It would be better to have a three-hour law class where we could talk.

Mr. Michel Doucet: We can do that.

Mr. Darrell Samson: Perhaps we could meet for a few beers after class. I have about 50 questions I'd like to ask you, but I'm going to focus on one or two.

Over the past month, we've discussed the issue of the two founding peoples, which is essential. You said the majority had to understand that, and I entirely agree with you. The issue has been poorly presented, poorly understood and poorly supported. However, it's more difficult to rely on the act to do all the work. I don't want to downplay the importance of including tools in the act. I've had experiences with certain politicians, whom I won't name. I know several deputy ministers, particularly in the Brunswick, and I told one of them I understood why he didn't wonder what he could do to help the Acadians when he went to bed at night. I also told him he had a responsibility and duty to understand the situation. That will be necessary.

Providing tools can help support the will, but some politicians want to survive. They say they want to help the francophone minority in Nova Scotia, for example, but they wonder how they can justify that to the majority. So the issue gets complicated. They have to be provided with tools. Here's an example. Supplementary funding was granted to the English-language school boards in Nova Scotia to provide training to newcomers who spoke neither English nor French. They were offered that training in English.

I reacted by saying we had a responsibility to educate, in French, assimilated Acadians who were entering our schools at the age of five and couldn't speak the language used at the institution, the language of one of the founding peoples. I was initially turned down, but, as a result of that thinking, we received funding for students who were entering the schools and couldn't speak the language used at the institution.

Here's another example. I think the present Nova Scotia government is very much in favour of supporting francophones. That wasn't the case when the Dexter government, which everybody knew, was in power. The NDP didn't support the minority. It's incredible, but that's what we experienced. The present government says there's a will, but it also relies on tools. For example, it says that the francophone school boards have a connection with the Charter and the Constitution and that it will help them for that reason. Nova Scotia is the first province in the country that has considered the possibility of drafting an education act in French solely for francophones.

My preamble is always longer than my question. Nevertheless, the will can't necessarily be cultivated by means of a statute. Consequently, I wonder what essential points in the act will help provide people of good will with the necessary tools to promote this to the anglophone majority.

Mr. Michel Doucet: I wouldn't want to give the impression that I'm opposed to the idea of amending the Official Languages Act. On the contrary, I'm in favour of it. Incidentally, I had the privilege of representing the Acadians of Nova Scotia in the electoral districts case. It was an honour for me. In the courtroom, we sat opposite portraits of Jonathan Belcher, the attorney general who signed the deportation order.

I don't think the way to provide people with tools will be found in the act. I think it has to come from a political message that each of you will deliver. In other words, if the political bodies aren't also convinced of the value of the act or of equality and don't make it a

priority, we can't expect officials to do so or the public to understand. It has to come from above.

● (0925)

Mr. Darrell Samson: We currently connect the will with tools. To me, that's important. However, can't the federal government, which represents both founding peoples, has responsibilities in that regard and transfers funds to the provinces, establish a language provision?

Mr. Michel Doucet: Absolutely, if that was the question, my answer is yes. I think the language provisions stated in federal programs are too lukewarm. They should be much clearer and tell the provinces that it's that and nothing else. What's currently happening...

Mr. Darrell Samson: You know what happens when judges are appointed, whether it be Judge Gascon or others. This is why the common law is dangerous. The common law helps us, but what happens is that the judges have different values.

Mr. Michel Doucet: Absolutely.

Mr. Darrell Samson: I'm not criticizing the policy. What I mean is that the Conservatives appoint people whose values are more conservative. That's what we see in Trump's case. The United States will have a hard time of it for the next 30 years.

The Chair: Thank you very much, Mr. Samson. Could you try not to strike the table so much? It must be hard on the interpreters' ears when you do it.

Mrs. Fortier, you have the floor.

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

We're having a very animated conversation around the table. We're also conducting a thorough review of the issue. Many briefs have been submitted.

I'd like us to take a close look at the measures that might be taken to strengthen federal-provincial/territorial relations through the federal-provincial transfer agreements reached to support the vitality of the minority language communities while allowing the provinces to be responsible for their policies on French-language services.

What positive measures do you think should be put in place?

Mr. Michel Doucet: There is obviously a variety of federal transfer programs. For example, under the Official Languages in Education Program, the OLEP, the minority communities of every province should be more involved in the agreements made under that program. That would ensure that the agreements address the genuine needs of the communities, not what the government believes the communities need.

There must also be accountability under these kinds of agreement. If we give money to a province for education in either official language, that province must account for the way it uses that money to ensure that it spends it for its intended purposes, and the communities must have a right of review.

Consider what's happening in Prince Edward Island, for example. It's definitely troubling that funding is being used for purposes other than those provided for under OLEP.

As for other obligations, the manpower training programs and others, I think that...

Mrs. Mona Fortier: There's also health, early childhood and justice.

Mr. Michel Doucet: Yes, it's difficult, because those areas, like education, are also provincial jurisdictions. The provinces don't want the federal government to interfere in their areas of jurisdiction, except that, if the federal government decides to fund certain programs using its spending power or other methods, it must make the provinces understand very clearly and precisely that it has a fundamental obligation under the Charter and the Official Languages Act to ensure that both official language communities are well represented or respected under those agreements.

The problem now is that those commitments are set forth in the agreements but subsequently forgotten, as a result of which no effort is made to ensure that the provinces have in fact complied with the commitments they've made.

I often get the impression that this is done automatically and that the parties subsequently forget to do it and move on to something else. The important part is to enter it in the agreements and to conduct a follow-up the following year to ensure that the money has indeed been used and the minority communities have been duly considered.

• (0930)

Mrs. Mona Fortier: Minister Brison recently announced amendments to the official languages regulations that focus on part VII of the act in particular, the issue here being indicators of vitality, such as what's going on in the schools.

What you think about that? How can we acquire compelling data on the situation of the communities and the French fact across the country?

Mr. Michel Doucet: Paragraph 32(2)(a) of the Official Languages Act already provides that the government should have regard not only to demographics, but also to the specific characteristics of the communities.

At the time, in 1990, I appeared before the parliamentary committee that was examining the regulations made under the act to provide that the government should look beyond demographics and consider specific characteristics. Unfortunately, that wasn't being considered at that time. So I'm pleased with the amendment that has since been made to ask the government to consider certain institutions, such as the schools, in implementing the regulations.

I think we can go even further, and that's what I was referring to earlier. I know that many groups have requested that these specific characteristics be acknowledged in the act itself. Unfortunately, I don't agree: in that case, we'd have one specificity for Quebec, another for Nova Scotia, a third for New Brunswick and so on, and the act would become thoroughly unmanageable. However, we could do it in the regulations.

Consequently, the regulations could state that they respect the language rights recognized in a province. For example, there should be no reason to require a francophone from New Brunswick to prove significant demand in order to obtain a service from a federal organization. I had to take the RCMP to the Supreme Court on this

issue, but the resulting judgment applies solely to the RCMP. It should in fact apply to all federal institutions because New Brunswick has agreed to recognize the equality of the linguistic communities.

We can do the same for Ontario and acknowledge the specific legal characteristics of the provinces in order to expand the scope of the regulations.

Mrs. Mona Fortier: I have a final question for you. If we don't have enough time, perhaps you could outline your ideas on the subject for us later on.

I'm the member for Ottawa—Vanier, and the national capital has been officially bilingual since last December. How could we reinforce the Official Languages Act so we could entrench the bilingualism of our capital in it? I know people are discussing this, and I believe you have a few ideas on the subject.

Mr. Michel Doucet: Yes, I've always been concerned about that issue.

I think the capital of an officially bilingual country such as Canada should protect the image of that fundamental value, the equality of the country's two official languages. On the other hand, I know that municipalities are a provincial jurisdiction. However, the municipality of Ottawa is a special case because it exists thanks to the federal government. In that respect, therefore, I would see no problem in recognizing that specificity and entrenching that obligation in the Official Languages Act.

Ottawa is a lucky city. You could move the capital of Canada to Moncton. A national capital has an enormous economic impact on a region. Ottawa exists thanks to the fact that it's the capital of Canada, and it should reflect that fact.

I always cite the example of Washington. I'm not talking about Washington County in Maryland or the city of Washington in Virginia, but about *Washington, D.C.*, in the District of Columbia. It's the federal capital of the United States. In the circumstances, I think we should do more to guarantee bilingualism in Ottawa.

Mrs. Mona Fortier: Thank you very much.

The Chair: Thank you very much.

Now we will turn the floor over to Mr. Blaney.

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Thank you, Mr. Chair.

Mr. Doucet, thank you for your presentation this morning.

This is the first meeting I have attended in some time, and you got us off to a good start by talking about what you would like to see in a modernized version of the Official Languages Act.

I note two points from your presentation: your vision of a Canada in which the two official languages are equal and the need for political leadership.

I believe Mr. Samson touched on an essential point in his preamble, which I won't repeat. How can we make the French language appealing for anglophones? For example, when I see one of my anglophone politician colleagues making an effort to learn French and speak that language, I say to myself that he's ambitious and wants to advance. We know you have to be proficient in both languages to hold senior political positions. What can we do to make French appealing to young anglophones in the primary schools of Ontario, western Canada and Atlantic Canada? It seems to me that it would be good for them, that it would help them discover francophone culture and that it would shape our identity. It's an open question, and I'd like to hear what you have to say on the subject.

• (0935)

Mr. Michel Doucet: I have to say I'd be very sad if I were unilingual because part of the world wouldn't be open to me. I find it very sad that I know only two languages. I'd like to be able to speak three, four, five or even six languages. In a restaurant in a little village in Portugal, I met a young Portuguese man 18 years of age who spoke eight languages. I thought he was much more intelligent and luckier than I.

Being able to speak another language gives you a window on the world and on another way of thinking. I'm not an expert in the field, but I read seven or eight French and English Canadian newspapers when I get up in the morning. The perceptions of the same news items are so different that I often wonder whether we're living in the same country. It would be good if everyone could understand the cultures of others and read their news.

How can you encourage young people to enjoy francophone music? I know American culture is everywhere, among anglophones and francophones, but we must make an effort to make francophone music known. As for authors, on the subject of research... I'd like to know three or four languages. I wouldn't be the same person if I knew only one language. That's why this is very important.

I would add this. We've often talked about two founding peoples, but I think there are three. We mustn't overlook the indigenous peoples.

Hon. Steven Blaney: Educational and language programs fall under provincial jurisdiction. I share your view that the more languages you speak, the better it is.

Going back to the modernization of the act and its part VII, you ultimately think positive measures are wishful thinking and, in fact, mean nothing, but, if we're going to be all in favour of virtue and yet do nothing, isn't there an area that efforts to modernize the act could focus on? How could Canadians rediscover the official languages? That's ultimately the objective. Shouldn't the aim in modernizing the Official Languages Act be to showcase the asset that is proficiency in another language, which comes with a culture and perspective of its own?

Mr. Michel Doucet: Two members of your committee are anglophone, but I believe that official languages must be the business of all federal members, not just those who are francophone. The official languages must be as important for people from Alberta as for those from Nova Scotia or New Brunswick. This must be part of your will to change Canada. That's important.

Hon. Steven Blaney: I agree.

Since you mention our anglophone colleagues, I'm going to give the rest of my speaking time to Mr. Genuis.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Mr. Blaney.

I want to make it clear to my colleague that I'm learning French, not out of ambition, but because I love and am interested in languages.

Mr. Doucet, I'm a member from Alberta. I get the feeling that many young Albertans would like to take French courses in high school, but they subsequently don't have a lot of opportunity to use that language and therefore may lose their ability to speak it. The same is true of bilingual public servants who don't often have the opportunity to speak French. French-language services are requested from time to time, but it's not very common.

Do you have any suggestions as to how public servants and other individuals who have taken French courses can practise the language? Actually, French isn't widely used in our society.

Mr. Michel Doucet: I'd like to find an easy solution to that problem. I've often heard what you just said. I've had students who came out of immersion and told me the same thing, which is that they didn't have the opportunity to speak French after high school.

This is obviously a personal choice. Now it's possible to watch French-language television in all regions of the country. French radio stations are also available across Canada, and you can establish French conversation clubs as well.

I speak a little Spanish. My Spanish becomes much weaker when I don't have a chance to travel to Spanish-speaking countries. If I wanted to maintain it, I would read and listen to things in Spanish. It's a personal choice. If people want to maintain their knowledge of the language, it's up to them to use the means at their disposal.

In Canada, several aids can be used to do that, such as books, newspapers and French language radio and television stations. I regularly watch TV and read in English. That's what helps me maintain my knowledge of English, but it's a personal matter.

• (0940)

The Chair: Thank you.

Ms. Lambropoulos, you have the floor.

Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.): Thank you.

I'm the anglophone you mentioned who sits on this committee and comes from Quebec. Having the opportunity to be here and to see a large number of anglophones who come from across Canada, I can say that many anglophones living outside Quebec are very interested in learning French because it's not imposed on them.

However, anglophones in Quebec tend more to speak English among themselves and not to want to learn French because that's their way of protecting their own language in the province. We're talking about ways to promote French, and I'm thinking of positive measures that wouldn't necessarily force them to speak French, but that, as Mr. Genuis said, would afford them more opportunities to do so once their high school course is over. Last week, some observers from Toronto told me they envied the fact that we speak French so well because we come from Quebec. They told me they really wanted to learn French. You don't hear that from anglophone students in Quebec, for the reasons I just mentioned.

You said the government could do a follow-up to the federal-provincial agreements. I'd like to know how you specifically recommend that we do that. How could we exercise this right of review with respect to those agreements and what they've achieved?

Mr. Michel Doucet: For example, several agreements under OLEP already contain a provision requiring the province to report to the federal government on how the funding is used. In most cases, unfortunately, it's not enforced. Consequently, I think we should ensure that this follow-up is done. If it's in the act, we should ensure it's done.

I don't know whether I have time to add something briefly in connection with your first comment. New Brunswick is the only officially bilingual province in Canada, and 75% of francophones there are bilingual. The problem is on the English side. Less than 17% of anglophones are bilingual. That figure is even lower than the national average. I'm profoundly saddened and disappointed by the fact that the only officially bilingual province in the country projects this kind of image of bilingualism.

Ms. Emmanuella Lambropoulos: Thank you. I agree with you; I think the entire country should try to become bilingual. We're fortunate to be able to do so.

I want to go back to my question.

Mr. Michel Doucet: Yes, pardon me.

Ms. Emmanuella Lambropoulos: We're going to modernize the act; that's for sure. You mentioned a follow-up, but I'd like to know who would do it and how.

Mr. Michel Doucet: It would be the minister responsible who signs the agreements with the provinces. Whether it be OLEP, manpower training agreements or health agreements, the officials responsible establish those agreements. Consequently, it would be up to them to ensure the obligations are met.

I often get the impression that all other obligations are considered important but that no one focuses on official language obligations. No one is asked to report on the way objectives are achieved. As I said earlier, provisions are included automatically, but not because anyone wants to ensure that the province or the other parties meet those obligations. I've seen that in several areas.

● (0945)

Ms. Emmanuella Lambropoulos: Thank you.

Mr. René Arseneault: Do I have any speaking time left?

The Chair: You have one minute remaining.

Mr. René Arseneault: Mr. Doucet, we're talking about the federal government's obligation to implement positive measures, but the division of power, federal and provincial jurisdictions, is always there. The provinces are easily scandalized when it comes to that.

A subsection in part VII concerns positive measures to implement the federal government's commitment to official languages. Let's say a federal department, any one of them, wishes to transfer funding to a province, for schools that a francophone minority in that province is requesting, for example.

If the province doesn't meet that need, the department could decide to withhold a portion of the funding it allocates to ensure that those positive measures are implemented. Would that be a constitutional means of defence in resolving this jurisdictional war?

Mr. Michel Doucet: I appeared before the parliamentary committee when part VII was amended in 2005, and I was troubled by an addition that had been made to that part respecting compliance with provincial jurisdictions.

Education is a provincial jurisdiction. As a result of its spending power and in the context of these agreements, it would probably be difficult for the federal government to dictate to the provinces how to use the money it gives them.

However, it could very well ask the provinces to be accountable, to explain how they have spent the money and to involve the communities. I knew at the time that this provision would come back to haunt us at some point, and I told the committee so. That's what's happening now. The provinces are saying that the federal government can do certain things, but always in compliance with their jurisdictions. I understand that because we have a federal system.

The federal government would not be able to interfere in postsecondary education or education in general, but it could ask the provinces to report on the way they use their funding.

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

Mr. Doucet, thank you very much for your presentation and your answers to questions from members of the committee. Thank you, indeed.

Now we will suspend for a few minutes.

● (0945)

(Pause)

● (0955)

[English]

The Chair: Pursuant to Standing Order 108(3), we are studying the modernization of the Official Languages Act.

It's our pleasure this morning to have with us the Quebec Community Groups Network, with Geoffrey Chambers, president, and Stephen Thompson, director of policy, research and public affairs. Welcome.

As usual, you'll have about 10 minutes to make your introduction, and after that we'll go to the members of the committee for questions and comments.

We're listening to you.

Mr. Geoffrey Chambers (President, Quebec Community Groups Network): *Merci*, and good morning, Messieurs Paradis, Clarke and Choquette and members of the committee. I'm Geoffrey Chambers, the president of the Quebec Community Groups Network, a not-for-profit linking 58 English-language community organizations across Quebec. We serve Quebec's English linguistic minority communities, which are referred to collectively as the English-speaking community of Quebec. Joining me at the table is Stephen Thompson, our director of government relations, policy and research.

I have a few points before we begin.

I'd like to restate our condemnation of the decision of the Government of Ontario to abolish the Office of the French Language Services Commissioner and cancel plans to create a new French-language university. English-speaking Quebecers stand firmly behind Franco-Ontarians and indeed all French-speaking Canadians living in linguistic minority communities. We understand and support their struggle. We are in this together with them, and they can count on our ongoing support.

We would also like to acknowledge the leadership of Senators Tardif and Cormier, and your honourable colleagues on the Senate Standing Committee on Official Languages in inspiring the Government of Canada's review of the official languages regulations and the ongoing national discussion, for which we are here today, on modernizing the Official Languages Act.

Finally, we take this opportunity to unequivocally offer our support and register our agreement with the principles and concepts advanced by the Fédération des communautés francophones et acadienne du Canada in their brief to this committee. There's no daylight between our mutual objectives of improving how the Official Languages Act works and advancing the linguistic rights of all Canadians.

There can be no doubt that the act must be modernized and that this work must be completed and accomplished quickly. The Federal Court's decision in *FFCB v. Canada* and the Commissioner of Official Languages' paralysis to pursue part-VII-related complaints are real and they're happening now. Last year's Borbey-Mendelsohn report on linguistic duality in the federal public service workplace highlighted continuing challenges for English and French Canadians to realize their rights under parts IV and V of the act. Many federal institutions are failing to meet their obligations under part VI of the act when it comes to employing members of our community in their workforce in Quebec.

The Official Languages Act is a lifeline for English-speaking Quebecers. The act is the only language-rights legislation that protects the interests of English-speaking Quebecers as a community. The act sets out quasi-constitutional rights for English-speaking Quebecers, including the right to access federal services in English, the representation of English speakers in the federal public service, and those workers' rights to work in English. Further, the act provides the framework for much needed financial support for the community's institutions and networks.

I'm going to pass the next section over to Stephen.

Mr. Stephen Thompson (Director, Government Relations, Policy and Research, Quebec Community Groups Network): Good morning.

It was a pleasure for me to be here this morning to hear Michel Doucet's testimony. We are both members of Statistics Canada's advisory committee on language statistics, which met yesterday.

When considering the modernization of the act, our thinking was guided by the following principles, which must be woven into the fabric of new legislation.

First is the equality of status of English and French. There can be no separate status; nor can the law be written to differentiate approaches to either language. Flexibility to meet the unique needs of individual official language minority communities and achieve substantive equality can be achieved through effective consultation.

Second, a new act should provide for robust, mandatory and properly resourced consultation at all levels, including a formal mechanism for consultation at the national level. This is a major concern of English-speaking Quebec, which is not equipped to equally participate in national-level official languages discussions; nor is its presence adequately felt or seen here despite the size of our community.

Specific recommendations are contained in our written brief. I will, however, highlight the following.

Parts IV, V, VI and VII of the act are intimately connected yet implemented separately without coherent accountability. How can an institution fulfill its part IV obligations if it does not employ sufficient numbers of minority-language Canadians or allow federal civil servants the right to learn and work in their minority language? How are the official language minority's institutions and organizations visible to federal institutions, which are committed to taking positive measures to enhance vitality, if they exclude minority-language Canadians from their regional workforces? A siloed approach to implementing parts IV through VII of the act does not work.

We also draw the committee's attention to the chronic under-employment of English-speaking Canadians in the federal civil service in Quebec outside of the national capital region. From this perspective, several federal institutions are not meeting their obligations under this section of the act, which is vague and lacks regulation to make it enforceable.

Clarity and accountability must be brought to part VII of the act, and the Minister of Official Languages must be provided the authority to implement its commitments. We also insist on strict transparency provisions on federal investments made under part VII from all recipients, including provincial and territorial governments. Clear definitions of "positive measures", "enhancing the vitality of", and "supporting the development of" official language minority communities must be included. Responsibility without authority, like "in consultation with", must be expunged.

We also call for a more focused role for the Commissioner of Official Languages, and the establishment of an administrative tribunal with the power to sanction transgressions of the act.

• (1000)

Mr. Geoffrey Chambers: The QCGN's objectives in this discussion are not only to offer suggestions on how to make the act work more efficiently and effectively but to seize this opportunity to strengthen the language rights of Canadians. As I said in my opening statement, we firmly believe that Canada's English and French linguistic minority communities are in this together, and in that spirit we outline the following three goals:

With regard to part V, on language of work, this section of the act starts out well:

English and French are the languages of work in all federal institutions, and officers and employees of all federal institutions have the right to use either official language.

but it then goes on to severely limit these rights, based on geography. Technology has made geography, in terms of work, largely obsolete. Moreover, locating national institutional headquarters outside of the national capital region often results in the absurd situation of imposing on offices obligations for bilingual services to the public, due to the nature of their service, without the workers in those offices having the right to work in their official language.

In terms of employee relations, every federal civil servant must have the right to use the official language of his or her choice, and the right to learn his or her second language.

Part III of the act already provides a number of obligations for federal courts and tribunals regarding the administration of justice. These obligations should remain, and should be enhanced in an important way. Judges of the Supreme Court should be able to understand the official languages chosen by the parties, without the assistance of an interpreter.

Further, the act should create a federal obligation under part VII to encourage and assist provincial governments to ensure that access to the entire justice system is available in both official languages. A bilingual judge is of little use if the clerk cannot work in the minority language, and other court functions are not available.

Parts IV, V and VI of the act should be applicable to all federally regulated private enterprises. The only private businesses in Quebec that are not subject to the Charte de la langue française are federally regulated businesses and undertakings such as chartered banks, telecommunications companies and transportation companies.

Proposals to extend the application of the the Charte de la langue française to these entities would not only be constitutionally incoherent but would have the effect of territorializing constitutional language rights, which would pose an unacceptable threat to French and English linguistic minority communities across the country.

Extending the Official Languages Act, on the other hand, to federally regulated businesses and undertakings would not only fix a mischief in the law that exists in Quebec, it would ensure that these businesses experience the economic benefits of working in Canada's two languages across the country, and create language rights under

the act for thousands of workers within federally regulated businesses across the country.

It would also provide a right to work and a right to service in the minority language from federally regulated businesses in every province. Therefore, it would be a win for both French and English minorities, and for the French and English majority populations across the country.

Thank you very much, and we look forward to your questions.

• (1005)

The Chair: Thank you, Mr. Chambers.

[Translation]

We will begin our round with Mr. Blaney.

Hon. Steven Blaney: Thank you, Mr. Chair.

Thank you, Mr. Chambers. I wanted to congratulate you for supporting the Franco-Ontarian community. It's very interesting to see our minorities join forces in dealing with situations that concern them.

That leads me to my question. As I told you at our first meeting, I'm from Sherbrooke, a city where anglophones and francophones live together harmoniously. Recently, when the Prime Minister went to Sherbrooke on a consultation tour, he was asked a question in English and answered it in French on the ground that he was in Quebec. A few days earlier, he had been in Ontario, where he was asked a question in French, which he answered in English because, I imagine, he was in Ontario.

Have you managed to counter this perception of linguistic compartmentalization? If not, what can we do? There has been a lot of talk about political management to enable anglophones and francophones to speak their own language wherever they are in the country or in Quebec.

Mr. Geoffrey Chambers: As you know, we raised an objection at the time. We were somewhat disappointed because the citizens who appeared in Sherbrooke to ask questions had intended to address topics that should have been discussed in English.

[English]

The matter that was placed in front of the Prime Minister, I think, was an error. I think the response of the government subsequent to those events—because they weren't entirely isolated—has been pretty positive.

We have a dialogue about these matters and we try to discuss what the correct, polite and accommodating gesture is with regard to language in different circumstances. We don't always get it right, but we have to move towards trying to get it right as much as possible.

I do think the events you referred to illustrated a problem that is slowly but, I think, surely resolving itself.

Hon. Steven Blaney: With respect to the issue regarding the English-speaking Quebecer, the population is aging. There are needs with respect to health and being served in your mother tongue—if I can put it that way. In your view, since you are one of the best persons to address this, what is the biggest challenge today for the English-speaking community in Quebec?

Mr. Geoffrey Chambers: There are a number of umbrella problems, but I think you have referred to what we would probably regard as the most pressing question, which is that the right of English-speaking Quebecers to receive health services in their language is limited to the specific obligations codified in something called an “access plan”. You can’t, as an English-speaking Quebecer, walk into a health institution and say, “I want this thing in English”—unless, when the institution looks it up, it finds out that it’s obliged to do it, that it’s written down that you have to get that in English.

Those plans are, for the most part, eight years old, out of date, and do not correspond to the institutional structure that was changed four years ago under Quebec’s Bill 10. We’re working very hard with the provincial government to put in place a new set of plans. Until they’re in place, that right—which, in our view, should be an absolute right but which is, in fact, a limited right of access only when there is a defined service and which should be sorted out—would be our number one priority.

Of course, there are many other issues. There’s some possible threat to our educational institutions under the educational reform that’s being discussed. That could be quite worrying, but it hasn’t happened yet. There are marginalized communities around the province that have a very difficult time getting any kind of service, because they’re in small numbers in distributed areas.

So there are other things to discuss.

However, I think you were mentioning health and social services as being at the top of our agenda, and that would be pretty accurate.

• (1010)

[Translation]

Hon. Steven Blaney: So being served in your language and preserving your institutions are two of your major priorities.

Mr. Geoffrey Chambers: Precisely.

Hon. Steven Blaney: That’s it for me, Mr. Chair.

Thank you very much.

The Chair: Thank you, Mr. Blaney.

Ms. Lambropoulos, you have the floor.

[English]

Ms. Emmanuella Lambropoulos: Thank you very much for being here with us today.

You mentioned that there’s chronic underemployment of anglophone Quebecers in the federal civil service. Why do you think the federal civil service is not meeting its obligations towards anglophone Quebecers, and what could be done about this?

Mr. Stephen Thompson: To take the edge off that a little bit, overall, yes, we are under-represented in Quebec. There are

institutions that are doing quite well, but there are institutions that are doing quite poorly, obviously.

Corrections Canada in Quebec employs about 3,700 folks, and about 150 are anglophones. The effects of that are obvious if you are an English-speaking prisoner at the federal training centre in Laval or you’re in Donnacona.

I don’t think this was done deliberately. I don’t think there’s any mischief being done here. It’s just that they just don’t know.

For example, English-speaking Quebecers are overrepresented in the Canada Border Services. The English-speaking communities tend to be along the border, and those jobs tend to need bilingual people. So if you know an uncle or have a father or sister or know somebody else who works there.... Those are the connections, as we all know, that get you the job.

If you are in places such as Corrections Canada, ESDC, National Defence or some of these other institutions where you don’t have those connections to the community, there’s no attraction or realization for young people, and they have a hard time getting the jobs.

That being said, we met with the Clerk of the Privy Council last year. Mr. Wernick was very interested in this. We are right now working with the Quebec Federal Council and the Public Service Commission to find ways to increase the numbers of English-speaking Quebecers working in the federal civil service in Quebec.

Ms. Emmanuella Lambropoulos: Do you see any other ways of ensuring that this issue gets solved?

Mr. Stephen Thompson: It’s about connections. This is linked to the under-representation of English-speaking Quebecers in provincial government service in Quebec. Young people in Quebec just don’t see themselves working for government. It’s a matter of education in the schools. It’s about inspiring young people to seek jobs in the public sector provincially and federally, and making sure there are welcoming ways for them to do so.

Ms. Emmanuella Lambropoulos: You also mentioned that you sit on the Statistics Canada advisory board on language statistics. What exactly do you do on this board? Is it something that’s specifically for minority languages, or is it for languages in general?

Mr. Stephen Thompson: Statistics Canada has a number of advisory boards. One of them is on language statistics. You’re appointed to the board by the chief statistician for a period of time. You’re appointed as an individual. The board meets a couple of times a year.

It’s not specific to official languages; it’s about language statistics in general. I would encourage the committee to ask Statistics Canada. I think they are coming later this month, and I would encourage you to ask Statistics Canada about the committee.

Ms. Emmanuella Lambropoulos: I have one last question. Do you find there’s adequate representation of all Canadians, with regard to language statistics in general?

Mr. Stephen Thompson: It would be hard for me to comment on that, as a member of the committee. There are two English-speaking Quebecers on the committee of 12.

Ms. Emmanuella Lambropoulos: Is there any indigenous representation?

Mr. Stephen Thompson: There is a representative of the Government of Nunavut on the committee.

[Translation]

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

It's your turn, Mr. Choquette.

[English]

Mr. François Choquette: Thank you very much, Mr. Chambers and Mr. Thompson, for being here today. It was very interesting to see that everybody is motivated, everybody is showing solidarity with the Franco-Ontarians. It's very interesting to see that. Even the QCGN is there to say that we need to protect communities across Canada, the English community of course, and the French community also. Thank you for your support. It's very important. There's also support from everyone in Quebec, and that's very interesting to see.

You talked about part VI with regard to the workforce in Quebec. You talked about the program with the Correctional Service of Canada, and the fact that parts IV and part V—if my memory is good—are separated but maybe should be more inclusive and not seen as silos. Can you talk about that a little?

• (1015)

Mr. Stephen Thompson: Let me go back to the Correctional Service of Canada example. Because of the nature of the service they provide, they have an obligation to provide services to prisoners in both official languages.

However, if they're not employing enough anglophones under part VI, then they're less likely to have folks who can talk to the prisoners. The day I went to the federal training centre, for example, I was assured there was a capacity for all the guards, all the time, to speak both English and French to the prisoners. They took us into a unit where all the prisoners were English, and it just so happened that neither of the two guards on duty could speak English. This is obviously a safety problem, and there are all kinds of other problems associated with that.

That's part VI and that's part IV. Let me bring in part V. Because there are so few services available—because there are so few English-speaking guards and the capacity isn't there to provide part IV in terms of the language of work—we were told by Correctional Services that bilingual francophone guards purposely fail their language tests in order not to have to deal with English prisoners. This undermines part V.

The educational institutions that are providing college and high school-level educational services to English prisoners in the prison are the local French CEGEP and the local French school board. That's part VII, because there are local English institutions that aren't being supported by the federal institution.

The examples in our brief are a microcosm of how all parts of the act should be linked and what happens when they're not.

Mr. Geoffrey Chambers: Beyond linking—obviously, that's the first stage—we need to have an active device to look at these service patterns and figure out how to get a good solution, and it will be quite different in different settings. But while nobody's responsible for that, the administrators of these programs have a lot of other responsibilities, and they're doing the best job they can with their other obligations, and if they fail in regard to official languages, there's no downside, no correction.

I'm not necessarily looking for a punitive approach, but there's no result at all, and that creates no incentive for fixing things.

Mr. François Choquette: Thank you.

The other thing I wanted to talk about with you is the extension of the Official Languages Act to all federally regulated businesses. This is huge; it's new; it's interesting; but how can you see that happening? What are the obstacles we may face, and how can we go through this without too many obstacles?

Mr. Geoffrey Chambers: Most federally regulated businesses have national profiles and already have service profiles that provide good connection with their public in both official languages, so the telecoms, I think, would have no trouble with it.

The large transportation industries would have a slightly more complicated situation. We think that one of the reasons that Air Canada is constantly in dispute with the official language regime is that they feel imposed upon to a higher level of cost and service profile, which their competitors don't have to provide. Well, it's not as a result of Air Canada formerly having been a Crown corporation that somebody deciding to take a flight from Montreal to Toronto or from Montreal to Vancouver, who would expect to be served in French, will decide to go on Air Canada because WestJet doesn't have an official obligation. They should have the same degree of commitment to our national priorities. There might be some push-back there, but I think it's a regulatory matter and the government should stand up and say it's a requirement for operating in Canada.

In most of the other settings—and I'll eventually pass this over to Stephen who's more of an expert at this—in the studies we've suggested, companies probably wouldn't experience much additional cost or regulatory intrusion.

• (1020)

Mr. Stephen Thompson: There was a report done by Industry Canada, which I think I shared with your analyst, and if I haven't, I will. It was done a few years ago. You will remember that the NDP advanced a bill that would have extended the Charte de la langue française to federal undertakings in Quebec, and at the time Industry Canada did a very good study on the impacts, and looked at what was happening then.

As Geoffrey just mentioned, what Industry Canada found was that there really wouldn't be much of an impact on the banking industry. The Royal Bank of Canada has awards from the Office québécois de la langue française. So the chartered banks operate right now in Quebec voluntarily in accordance with the Charte.

How big a deal would this be to federally regulated businesses? It probably would not be much, but the idea that there would be huge economic benefits afforded to these businesses, I think, is the message. You asked how we would do this. It would be a political decision, but I would suggest that we do this not by saying, “You will conform to the Official Languages Act”, but rather by using the message that they should look at the benefits to their businesses and look at the experience of their customers if they operate in Canada’s two official languages.

The Chair: Thank you.

We’ll go now to Mona Fortier.

[Translation]

Mrs. Mona Fortier: Good morning.

Thank you very much.

[English]

I want to start by acknowledging that your support for the francophone community in Ontario was so well received, and honestly, the fact that you acted so quickly in supporting the community is something that I, as a Franco-Ontarian, really appreciate, and I know the community also really appreciated it. So thank you for that collaboration and the fact that you were so quick on the button, as we say.

Also, I want to recognize the fact that, as a Franco-Ontarian, I understand that it’s not a one-size-fits-all approach when you’re trying to examine the law, to make sure that if on one side for francophones it’s one thing, it should be the same for the anglophones. I understand the differences in reality.

Mr. Blaney was asking about challenges, and I think for me it’s always a learning opportunity to better understand not only the challenges but the solutions that you want to propose, so we can support those in making sure we recognize in the next law the support for the anglophone community in Quebec.

I understand the realities for the health services. There has to be better alignment with the transfers and with how we ensure there are some linguistic clauses with Quebec. I’m not sure how to do it, though, or how to frame it. You mentioned a couple of ideas. Do you want to maybe continue by telling us what exactly we should change in this law to support your needs?

Mr. Geoffrey Chambers: If I may, I would like to start with your first point. The organized French-speaking population of Ontario is a model in terms of its capacity to make representation and provide effective leadership on its issues for the English-speaking community in Quebec.

If you go back 50 years, you might say that the English-speaking community in Quebec was better situated in regard to institutions and to its socio-economic circumstances, but as we know, English-speaking Quebecers are less well off economically than any other linguistic group in the country now, so that’s a change in the model.

Also, we’re situated in a relationship with our provincial government wherein our institutions are being eroded. It may be that we had a full range of hospitals that were all built by the community 50 years ago, but now they’re all bilingual hospitals that

service everybody. They are good hospitals, and they are for the most part able to give good service in our language, but I say “for the most part” because there are examples where that’s been eroded out of existence. The Sherbrooke Hospital, which Mr. Blaney will remember from his youth, was eliminated. It was eliminated based on a promise that the obligation to provide service in English would be transferred to the CHUS, and it wasn’t. They changed the rules in the middle, and it went away.

We need to have a set of devices to address those questions. The Franco-Ontarians have developed those very devices. Their commissioner—who we are very concerned is being eliminated—is an example of a device. We would like to have somebody in Quebec who would intervene if there’s a failure of service. We have no such office in Quebec.

There are many other examples I could mention, but it would take too long. I’ve referred mostly to provincial structures, but we would like to see the federal government take an active role in supporting those kinds of things.

To pick up on one of your other points, the federal government does provide active support, much of which is diverted and ultimately unavailable to the communities because of the lack of transparency and the lack of accountability in the transfer system now. I know the federal government is taking that position that they want to improve the way those funds flow. I know there’s push-back. We would like you to know—

• (1025)

Mrs. Mona Fortier: Is it push-back by the province or push-back

Mr. Geoffrey Chambers: Yes. I guess right now there’s a dialogue going on between the federal government and the various provinces in which eight provinces are refusing to sign the new transfer agreements or haven’t agreed to them yet, so those funds are being held up.

There are provincial minority language institutions or organizations saying “we’re not getting our funds and it’s terrible”, but in order to have a reasonable regime going forward, the dialogue that Minister Joly I think is undertaking right now is worthwhile. We commend it, but that should be a regular feature. That should be in the act, not just something that I think a good and diligent minister happens to be paying attention to right now but something that is always and legally a structural quality of the way the system works.

Mrs. Mona Fortier: On the justice front, can you do pretty much everything in English in the justice system or are there many challenges there too?

Mr. Geoffrey Chambers: Again, the justice system in the Province of Quebec has eroded.

For the last six years, I believe, there has been no training for bilingual court clerks, so the supply of bilingual court clerks is dwindling to the point where, as a practical matter, it's impossible to have a bilingual trial, and there is never going to be a unilingual trial because every participant has the individual right to use whatever language they want. Even if all the parties are English-speaking or all the parties are French-speaking, one person can turn up and testify or whatever, so you have to have a court system that can do that.

They are not translating judgments so judgments written in English are not available or are not used or don't become precedents on the French side, and vice versa.

They don't adopt laws in a bilingual format today. For the English version of any law that's amended at second reading, usually the bill is submitted in both languages, but any changes are only *rédigés*.... I'm sorry. I should try to stick to one language.

[Translation]

Mrs. Mona Fortier: That's all right.

[English]

Mr. Geoffrey Chambers: They are only drafted after the passage of the law, and often not very well, so there are real problems with a civil code correlation of the two statutes, and consequently there are real problems for judges.

I could go on. There are quite a few structural issues. We started with our example from the Supreme Court because that's a purely federal question and because it's very important symbolically, but structurally, below that, many issues could be raised.

[Translation]

Mrs. Mona Fortier: Thank you.

The Chair: Mr. Rioux, you have the floor.

Mr. Jean Rioux (Saint-Jean, Lib.): Thank you for being with us.

There was a separatist party in power in Quebec that probably helped prevent the development of bilingualism in Canada as a whole. The francophone communities were forgotten. I think Quebec has just rediscovered Canada's 2.7 million francophiles.

Do you feel there's been a change in Quebec with regard to acceptance of the anglophone community? Do you think that the country could actually, not merely theoretically, become bilingual as a result of that acceptance.

• (1030)

Mr. Geoffrey Chambers: That's a very important point. The challenge for us is to be accepted and to take part in community life in a way that enables the majority to consider us as full-fledged Quebecers.

[English]

We work very hard at that. I think we make good progress on that. As Madam Lambropoulos pointed out, it's not perfect yet.

English-speaking Quebecers, for the most part, have decided to move there or have decided to stay there, and they have cousins, friends or classmates who decided that it wasn't worth it and are now

living in Mississauga, which is a lovely place to live, but it's not Montreal.

That personal decision on the part of families and individuals reflects a commitment to all the qualities of Quebec culture. We haven't gotten to the point where the two solitudes are entirely in the past, but we're making enormous progress. I think that our relations with the francophones outside of Quebec, who have a similar challenge, help, moving forward, the sense of belonging that we're trying to establish.

[Translation]

Mr. Jean Rioux: Thank you.

The Chair: Thank you, Mr. Rioux.

Mr. Clarke, you have four minutes.

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

[English]

Mr. Chambers and Mr. Thompson, thank you for being here.

Last spring, I read your memoir concerning your proposal for the modernization of the law. I thought it was very good and very comprehensive. You touch upon every aspect of the law.

I would like to know precisely this morning, in terms of making sure that people respect the law—we need to be able to enforce it sometimes—whether you would prefer to do an administrative tribunal or whether you would prefer that the commissioner have coercive powers.

Which option would you prefer?

Mr. Stephen Thompson: I think Mr. Doucet really outlined our thinking on this. I think that Mr. Johnson with the FCFA was also clear on this last week.

We've suggested an administrative tribunal in our brief. We aren't lawyers and we aren't experts on this. Our thinking is that this should be an administrative trial. We would like to see a Canadian human rights tribunal. We shied away from giving more powers to the commissioner because it didn't make sense to us to have a person who's investigating also have the power to punish. Maybe it would be better to have that taken out, just as a principle of law. Again, we're not lawyers, but as a legal principle....

The commissioner's role really is to promote and to have.... Former commissioner Graham Fraser was extremely eloquent in describing his ability to move around Ottawa and have quiet chats with deputy ministers. That's really difficult to do if you're the sheriff walking in with loaded six-guns.

What do we want the commissioner to do, remembering that the language rights support program had a role to educate and encourage official languages that the Court Challenges Program doesn't have? The only person in town who's performing that function right now is the commissioner. How much do you want to pile on the commissioner, and do you want those roles to conflict? That's why we're thinking about the tribunal.

Mr. Geoffrey Chambers: The commissioner needs to be an active advocate and a promoter. Making him also, as Stephen says, the referee or the sheriff would trammel him.

Mr. Alupa Clarke: For sure, but is there anything you would like to see changed in the commissioner's office?

Mr. Geoffrey Chambers: We'd like to see the commissioner continue to receive reasonable resources and, in his complaint-receipt function, to have the tools in parts IV through VII that allow him to act on complaints received. As we know right now there's a problem with the clarity of his authority to do so, so we'd like all of that to be fixed and clarified.

• (1035)

Mr. Alupa Clarke: As a last quick question, would you prefer to see all the laws of governance under the auspices of the Treasury Board or the Privy Council?

Mr. Geoffrey Chambers: We want to be slightly evasive on that point because it's a matter of government design, which we're not expert at. There seems to be some reservation about putting it with the Treasury Board, which is an enforcement device for the most part and not an advocacy device, although it does go across the whole government, so there's an argument for it.

The Privy Council, of course, goes across the whole government, but I understand that the trend in thinking is against giving it administrative responsibilities.

Whether it's handed to an entity that has strong administrative muscle but doesn't have penetration into all the departments that have to be influenced or that goes into all the departments that have to be influenced but is not going to care at all about the Official Languages Act and just has.... It's a difficult choice and frankly, we're going to throw the ball back to you. You're the experts. We'd like to see something that works. We're not able to define something from the outside that we're sure is perfect.

Mr. Stephen Thompson: We would think that this committee certainly would have the aegis and that during this consultation and the minister's consultation, it would be really interesting to hear from a group of former clerks of the Privy Council—

Mr. Alupa Clarke: That's right.

Mr. Stephen Thompson: —and ask them this question. They're experts on how government runs, and it might help us find the way.

[Translation]

The Chair: Thank you.

Mr. Arseneault, you have four minutes.

Mr. René Arseneault: Thank you, Mr. Chair.

If possible, I'm going to share my time with Mr. Samson, from Nova Scotia.

[English]

Thanks for coming, Mr. Chambers and Mr. Thompson. It's always a pleasure to greet the QCGN here. Every time I see you guys or your different representatives who come here, it's like the mirror of all our challenges

[Translation]

in Acadie or in the francophonie outside Quebec.

[English]

This question may be an aside to this, but concerning language minorities, as you're aware, we've just reinstated the Court Challenges Program that was abolished by the Harper Conservative government. Is that a tool that QCGN has used in the past?

Mr. Geoffrey Chambers: The English-speaking community used it right back to its inception, and it's often used in support of pan-national issues that we care about.

In an earlier life, I was the executive director of Alliance Quebec. We intervened in the Manitoba language rights case. I was in Manitoba and having Sterling Lyon say—

Mr. René Arseneault: That was a long time ago.

Mr. Geoffrey Chambers: Yes, that was the Court Challenges Program. There were many examples in between. It's been very important to us in securing our own rights, but it's important to characterize it as a national tool to create a set of principles that all official language minorities profit from.

We were very happy to see it reinstated, and it's been very important to us throughout its history.

Mr. René Arseneault: I don't know if you're aware, but I think we saw that person here as a witness for QCGN, James Shea. He's one of the experts on the panel for—

Mr. Geoffrey Chambers: Yes, we're very pleased there's going to be such high-quality judgment applied to who gets the support that the program offers. James Shea is a wise and a very good appointment, I think.

Mr. René Arseneault: To come back to the modernization of the act, I'd like to have your thoughts. I know Mr. Thompson says we're not lawyers and it's not a problem, being a lawyer, but I'd like to have your thoughts concerning the power and the authority an independent tribunal would have if we modernized the law toward that option.

Mr. Stephen Thompson: I don't remember the section, but a section of the Official Languages Act outlines the powers of the commissioner to investigate. I'm trying to remember a conversation I had with our lawyers around that. They were from Power Law. They came to see you last week.

Mr. René Arseneault: Yes, but, for example, independent from the commissioner, I understand you would like to have an independent administrative tribunal to deal with all those cases.

Mr. Geoffrey Chambers: The Human Rights Tribunal, I think, is the model we have been looking at. It's possible that, if we had a deeper discussion with them as to whether or not there are powers they don't have now but would like to have, we could come up with a model that has more muscle, but it would certainly be a place to start.

Mr. Stephen Thompson: One thing you might consider is accountability under the tribunal. Would it be institutional or individual? If there were individual accountability under a tribunal, people might pay significantly more attention to it.

●(1040)

Mr. René Arseneault: If I have time, can I share a minute with my colleague from Nova Scotia?

The Chair: You can share one minute.

Mr. Darrell Samson: Where is the accountability in sharing?

The Chair: You have one minute.

Mr. Darrell Samson: One minute, and I have four questions, and I don't know where to start.

An hon. member: Start with one.

Mr. Darrell Samson: The simplest one is—

An hon. member: What's the preamble?

Mr. Darrell Samson: There is no preamble.

Last year or the year before, there was a minister given responsibility to support the English community in Quebec. I understood that was very good and well received. Where are we today with that?

Mr. Geoffrey Chambers: Well, there is no minister appointed in the current cabinet. The cabinet is quite small, and the explanation given to us was that, as a result of that, the premier was going to take responsibility for this. With the help of a parliamentary secretary, we've applied to meet the premier. If he is going to be responsible for our file, we'd like to have a chance to talk to him. We have already met the parliamentary secretary.

It's a model that is not without merit. We'll give it a good-faith attempt. It's not as obviously a compliment to the community as is having a ministry, as Ontario has.

Mr. Darrell Samson: Will you let us know how it's going?

Mr. Geoffrey Chambers: We will.

Mr. Darrell Samson: You received, I understand, \$5.3 million more in the action plan. How was that received?

Mr. Geoffrey Chambers: As you can imagine, it was received positively. We are very pleased that the process of defining how it's going to be deployed has been undertaken by the department together with the community, and we're going through a very productive consultation, so that's gone very well.

Mr. Darrell Samson: Excellent.

On regulations, how did you receive the changes to the regulations? Do those apply to you, to what extent, and how were they received?

Mr. Stephen Thompson: On the regulations, we were extremely well consulted by Treasury Board and by all the players in the regulatory review. The concerns we had were reflected in the proposals, so we're very happy with them.

Mr. Darrell Samson: Bravo for the work you're doing, because it's being articulated well, received well and performed well. Thank you.

[Translation]

The Chair: Thank you, Mr. Samson.

Mr. Choquette, you have three minutes.

Just a moment, please. The bells are ringing and the lights are flashing to summon us to vote in the House. I request unanimous consent to enable Mr. Choquette to use his three minutes.

Some hon. members: Agreed.

Mr. René Arseneault: That's because it's Mr. Choquette.

The Chair: That's good. Go ahead, Mr. Choquette.

[English]

Mr. François Choquette: I want three minutes just to conclude, because in three minutes I don't have any time to add anything else. I just want to use those three minutes to have a conclusion regarding how you see the modernization of the Official Languages Act.

Mr. Geoffrey Chambers: There are two points we want to leave you with today. One is how important the current crisis in Ontario is, how much we appreciate everybody pulling together, and how much we feel it's necessary to continue with this exercise.

The more important long-term one, other than the purpose of the meeting, is to say how important the Official Languages Act is, how good an instrument it has been, and how relatively small and relatively uncontroversial changes—not massively redesigning the whole thing—could make it more effective and could make it a subject or a device to create unity in the country.

One of the things that make Canada Canada is the profile of two official languages. I had the privilege of attending Commissioner Boileau's symposium in Toronto yesterday. One of the presentations talked about all the countries in the world that have bilingual constitutional functions. There are about 52 countries out of 195, so about a quarter of the countries in the world do. The model that the proposition placed before us was that the model we function with in Canada is an example for other countries. Many other countries don't do as good a job.

Since we have these devices—and it is a very healthy thing for the country—to make them a little bit more effective and to continue to apply the energy and attention that you are doing is a very constructive exercise, and we want to encourage it, and we want to help in any way we can.

Mr. François Choquette: Thank you very much.

The Chair: Thank you very much, Mr. Chambers and Mr. Thompson. Thank you very much for your presentations and for answering the questions and comments of the members of the committee.

[Translation]

We will see each other again on Thursday. I remind you that the meeting will be held in the Centre Block and that it will be televised. We will be hearing from the commissioners of Ontario and New Brunswick.

The meeting is adjourned.

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