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**Chair**

**Mr. Pablo Rodriguez**

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## Standing Committee on Official Languages

Thursday, October 6, 2005

• (0905)

[Translation]

**The Chair (Mr. Pablo Rodriguez (Honoré-Mercier, Lib.)):**  
Good morning, everyone.

We'll start the meeting without delay so that we can take maximum advantage of the presence of the Commissioner of Official Languages and the people with her here today.

Good morning, Ms. Adam. It's always a pleasure to have you with us.

Ms. Tremblay, Mr. Finn, welcome as well.

Welcome, too, to all committee members.

This will be the last witness to testify on Bill S-3. This has been a long process, which started several weeks ago and which will conclude today with the testimony of the Commissioner of Official Languages.

Then we'll be leaving for the break week, and, as anticipated, on returning in the week of October 17, we'll have two working sessions devoted to the clause-by-clause consideration of the bill in order to finalize it and refer it back to the House.

Without further delay, I turn the floor over to Ms. Adam. Then we can continue with a question period.

**Ms. Dyane Adam (Commissioner of Official Languages, Office of the Commissioner of Official Languages):** Mr. Chairman, committee members, I thank you for allowing me to testify, once again, in favour of Bill S-3. I say once again because this is not the first time since this bill was introduced, whether under the name Bill S-4, S-11 or S-32, that I have had the opportunity to express my views on the subject. However, I hope that this will be the last time since the time has come, in my view, for Parliament to take this opportunity to act.

I would obviously like to emphasize my great admiration for the author of this bill, the Honourable Jean-Robert Gauthier. I would also like to take this opportunity to recognize the leadership of the honourable member of Parliament Don Boudria, who has enthusiastically sponsored this bill in the House of Commons.

As was confirmed, I am one of the last witnesses to be heard. First, I'll comment on the bill. Moreover, since I have had the opportunity to see the kind of questions put to the other witnesses, I will endeavour to answer your questions, insofar as possible. After that, I would be pleased to discuss any questions concerning this bill,

which is so important for the future of official language minority communities.

[English]

It will undoubtedly not come as a surprise if I tell you that I fully support Bill S-3 in its original version. This bill has the merit of being clear, concise, and precise. It is not necessary to go back very far in time to know that following amendments made to the Official Languages Act in 1988, the Government of Canada and its institutions have always had a great deal of difficulty living up to their obligations and duties under part VII.

Many have believed, and still believe, that the ultimate responsibility for part VII falls to the Department of Canadian Heritage for the simple reason that this department is responsible for coordination pursuant to section 42, and plays a prominent role with respect to promotion.

I will spare you all the details concerning the implementation of part VII since 1988. My office has in fact published numerous studies and reports on this topic over the last few years. Having said that, time is marching on, and it is clear that while officials endlessly debate how to implement part VII, concrete progress for official language communities is a long time coming.

While there have certainly been some worthwhile initiatives from time to time, and some departments and agencies have collaborated effectively with these communities, this remains too often the exception rather than the rule. However, it is not good enough, and this bill corrects a serious shortcoming by clarifying—and I'm almost tempted to say “finally”—the responsibilities of federal institutions. In this debate we tend to get bogged down in details, to spend more time hairsplitting on issues such as obligations of means versus obligations to achieve results.

Therefore, it seems more important to concentrate on the objectives of part VII of the act. And as Professor Braën, who came here, rightly pointed out to you, when we go to a doctor we do not expect him or her to cure us on the spot. This is not his obligation. But he or she has a duty to perform an examination, take appropriate action, formulate a diagnosis, and propose appropriate treatment tailored to the specific needs of the patient.

That is what the communities are also looking for, that the government take an interest in their situation and sit down and work with them to come up with a diagnosis and proposed government actions adapted to their specific need. That is the basic thrust of this bill.

If I understand correctly, the major problem with Bill S-3 from the government's perspective is that federal institutions may be faced with an obligation to achieve results. As far as I am concerned, all that bill does is to clarify that there is indeed an obligation to act for all federal institutions and not only for the Department of Canadian Heritage and the 34 designated institutions. That is one of the most important aspects of this bill.

The bill will allow the government to specify by means of regulations how institutions must act in order to support the development of the communities and to promote full recognition of French and English.

[Translation]

A number of amendments have been suggested to date. We must recognize that some have been dismissed by most of the witnesses. I am open to the idea of further improving this bill since the essential point is that it be passed by the Canadian Parliament. I have been urging the federal government to take action to ensure passage of this bill since at least my last two annual reports. Having said that, in my view, Bill S-3 contains three vital components which must remain, otherwise the bill will become meaningless.

First of all, it is essential to preserve subsection 41(2), which clarifies federal institutions' obligation to act. In order to address the government's concerns, I believe the wording can be discussed. It is my understanding that several government representatives feel that the verb "assurer", in the French version, appears to impose an obligation to achieve results. So, let us change it to "mettre en oeuvre cet engagement." The wording of this subsection would read as follows:

Il incombe aux institutions fédérales de veiller à ce que soient prises des mesures positives pour mettre en oeuvre cet engagement.

The reference to the qualifier "positives" is important so that institutions feel they are obligated to act and to be proactive in the implementation of Part VII. To say the least, it would be startling if the Government of Canada set the bar lower for itself than did the Government of New Brunswick, which, in the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, has committed to take positive actions.

The second aspect of the bill that absolutely must remain is the possibility for the Governor in Council to prescribe, by regulation, the manner in which the duties under Part VII are to be carried out. We can discuss later what the manner could be, but for the time being, I am pleased to see that subsection 41(3) does not appear to pose any major problems.

Finally, the third aspect which in my view is fundamental is the possibility of legal action, hence the proposed amendment to subsection 77(1). Some have openly questioned whether this aspect would unleash a flood of legal actions. These fears are unfounded.

Since 1988, when it became possible to launch court actions related to violations of Part IV of the Act — which deals with language of service — the courts have only dealt with a dozen or so proceedings. Furthermore, these proceedings are in fact due to the lack of clarity concerning the federal government's obligations, as in the case of the *Forum des maires*, to take a recent example. This is why the communities find themselves forced to turn to the courts.

When federal institutions demonstrate leadership and adopt, without being forced by the courts, the dynamic and liberal approach that the Supreme Court has clearly indicated they should follow, Canadians, and official language minorities, do not feel it necessary to resort to the courts. Legal challenges become necessary, indeed inevitable, where there is no other choice, when goodwill and respect are lacking.

Several issues have been raised concerning the inclusion of an amendment to section 43, which deals solely with the obligations incumbent on the Department of Canadian Heritage. Some believe that this amendment would force the federal government to interfere in areas of provincial and territorial jurisdiction. Although I do not agree that this amendment could contradict the Canadian Constitution and thereby allow the federal government to act in areas that fall exclusively under provincial jurisdiction, if this amendment becomes an obstacle to passage of the bill, I do not believe that it is essential and vital to preserve it.

● (0910)

[English]

What I'm proposing is quite simply to not amend section 43 in any way, to leave it as it is currently stipulated in the act. This way we will not have to waste time on another debate that will further distract us from the objectives of the bill, the importance of which is recognized by everyone here.

The essential point of Bill S-3 is to clarify the obligations of federal institutions. I cannot overemphasize the importance of your work on this vital bill. I urge you to continue to debate it carefully and thoroughly, as you have done so far. However, bear in mind the objective in your debates: namely, that it is less important to protect the status quo for federal institutions as much as possible, which would perpetuate the current vagueness and lack of clarity, than it is to take concrete action to fulfill once and for all the promise made in 1988 when this bill was adopted—namely, that the federal government would do everything in its power to act in the areas of jurisdiction while seeking partnerships with other provinces and territories in order to foster the development and enhance the vitality of official-language minority communities.

If you will allow me, in conclusion, I'll reiterate my recommendations. Basically, amendments to the wording of subsection 41(2) in the French version of the Official Languages Act would read as follows:

● (0915)

[Translation]

Il incombe aux institutions fédérales de veiller à ce que soient prises des mesures positives pour mettre en oeuvre cet engagement.

[English]

As for section 43 of the Official Languages Act, I propose that you make no amendments and that you leave it as it is currently worded in the Official Languages Act.

I will be pleased now to answer any questions you may have.

Thank you again for inviting me here.

[Translation]

**The Chair:** Thank you very much, Commissioner.

If I'm not mistaken, your amendments essentially consist in making changes to proposed subsection 41(2); proposed subsection 41(3) remains the same.

**Ms. Dyane Adam:** Yes.

**The Chair:** The amendment to section 43 would be deleted; we would be keeping what's in the act as it stands.

**Ms. Dyane Adam:** The original.

**The Chair:** Of course, we're using section 77 as proposed in Bill S-3 to amend the act.

**Ms. Dyane Adam:** Yes.

Mr. Chairman, the proposed amendments are amendments to Bill S-3. So they should be read together with the bill.

**The Chair:** Yes, of course. Thank you very much for that presentation.

Since we have two hours, would you like to proceed in the old way, with a first round of seven minutes, then a round of five minutes? Or does everyone want to have five-minute rounds instead? I find the five-minute rounds more dynamic. So we'll proceed that way.

Mr. Lauzon.

**Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC):** Welcome, Ms. Adam. Welcome to your colleagues as well.

In your speech, you said, in English:

[English]

“If I understand correctly, the major problem with Bill S-3 from the government's perspective is that federal institutions may be faced with an obligation to achieve results.”

Do you not feel that they're faced with an obligation to produce results now?

**Ms. Dyane Adam:** No.

**Mr. Guy Lauzon:** Why do you say that?

**Ms. Dyane Adam:** In my interpretation of our current bill, forget about the new project, I've always maintained, and I still maintain, that as it is written, there is an obligation for the government to act, but the problem is that the current government believes it is more of a declaratory nature. It's more a political commitment rather than an obligation. So the whole purpose—

**Mr. Guy Lauzon:** Do you not report on the results of the government as far as its achievements on official languages are concerned? You make your annual report. That's part of your mandate.

**Ms. Dyane Adam:** Yes.

**Mr. Guy Lauzon:** I don't understand. If they're not obliged to have results now—

[Translation]

How is that? I don't understand.

[English]

**Ms. Dyane Adam:** The Official Languages Act is not only part VII; there are a lot of other obligations under it. Take, for example,

service to the public. It's quite clear in the minds of parliamentarians and government that they have an obligation to results, and this is measurable—you have it or you don't. So I will report on that. I will report on language of work. I will report on data on the participation rate of English-speaking and French-speaking Canadians in the public workforce.

But with respect to part VII, this is an area where the government is unclear as to what more or less its duties are. Some think yes, there are definitely commitments and obligations to act, or it's just left to the *bon plaisir* of the government. I think the whole debate we have right now is to achieve some clarity as to what is to be expected from the government with respect to this commitment under part VII.

[Translation]

**Mr. Guy Lauzon:** What's going to change if Bill S-3 is passed? How will that change the government's obligations?

• (0920)

**Ms. Dyane Adam:** Currently, the federal institutions don't feel compelled or required to take action under this part of the act. Consequently, some institutions act as they wish, and others refrain from acting, saying that this would perhaps be desirable or preferable, but that they have other obligations, and, consequently, they won't invest any energy, effort, time or resources in that objective. When you evaluate the government on the implementation of this act, as my office has done for a number of years now, you see that its performance has been very uneven. Some departments are champions, while others absolutely are not. That can have very serious consequences for the future and vitality of these communities.

**Mr. Guy Lauzon:** What's the difference between the departments that do well and those whose performance is poor?

**Ms. Dyane Adam:** Are there...

**Mr. Guy Lauzon:** Are there any differences? How is it that some departments do well, and others don't?

**Ms. Dyane Adam:** Why is that the case?

**Mr. Guy Lauzon:** Yes.

**Ms. Dyane Adam:** It's essentially because the department that decides to take action under this part of the act recognizes that it has a duty to act.

**Mr. Guy Lauzon:** For the departments that perform well, why would it be necessary to have an act?

**Ms. Dyane Adam:** The conduct of a large organization like the federal government is regulated and legislated. There are always regulations. If the government and parliamentarians really believe in that commitment, they won't allow the carrying out of that commitment to depend on the good will of the administrator of the moment, the minister of the moment or the deputy minister of the moment. They must ensure that that commitment is clear and that performance is equal. As a result, citizens and communities will be assured of a positive response when they go knocking on the federal government's door. It won't just depend on the person behind the door or the fact that that person is sympathetic or not.

**The Chair:** Am I right in saying that these amendments establish an obligation to act? It wouldn't be an obligation to achieve results or an obligation of means, but an obligation to act.

**Ms. Dyane Adam:** Yes, it would be an obligation to act.

**The Chair:** That's good.

We'll move on to Ms. Brunelle.

**Ms. Paule Brunelle (Trois-Rivières):** Good morning, Ms. Adam.

In your speech, you say:

In this debate, we tend to get bogged down in the details, to spend more time hair-splitting on issues such as obligation of means vs. obligation to achieve results.

I'd like you to elaborate on that statement. You're telling us that, when we go to the doctor, we don't expect to be cured immediately. However, we definitely don't expect to get worse. When you talk about obligations, as you've just done, I wonder how you'll measure results among the various departments. Doesn't the Official Languages Act currently contain all the necessary means to enable us to achieve better results than those proposed under Bill S-3, provided there is a real political will to do so?

**Ms. Dyane Adam:** I think the past points the way to the future. Let's consider Part VII of the act as it has stood since 1988. At the risk of repeating myself, as it is currently worded and interpreted by the federal government, I assert that performance is really uneven.

Some departments pay little attention to this aspect. As a result, since I've been Commissioner, some deputy ministers aren't even familiar with this part. It's not even on their radar screens. So, if they're not aware of the obligations under an act, there's very little chance that the departments are taking measures to ensure that their administrations act in accordance with this aspect of the act, unless the government says it considers this part binding and requires all federal institutions to act to promote the vitality and development of the communities and advancement.

However, this government does not currently recognize that. Furthermore, from the perspective of parliamentarians, governments change. So you want to ensure there is a permanent commitment, not one based on the government of the day. The benefit for you parliamentarians is that you ensure that this bill will be more or less protected from the governments of the day and the way they could interpret this part of the act.

• (0925)

**Ms. Paule Brunelle:** Can you give me a specific example: if Bill S-3 were passed tomorrow, what could be settled quickly?

**Ms. Dyane Adam:** I'm sorting through the files that are before us right now. Let's take Industry Canada and certain programs that promote partnerships between industry and the communities.

I'll give you a personal example. That'll be even better.

When I was the principal of Glendon College, a university in Toronto, calls were made to the communities. This concerns institutions and the corporate world in the technology field. The purpose of those calls was to establish partnerships in order to secure fairly large sums of money to build technological infrastructure at our institutions. A partnership had to be entered into with major corporations.

Do you believe that an institution with 1,500 Francophone and bilingual students in Toronto, or the Collège universitaire de Saint-Boniface in Winnipeg, which has roughly the same number of

students, or the Université Sainte-Anne in Church Point, with scarcely 1,000 students — probably more like 500 — can secure a partnership with major corporations? No, they go with U of T, and so on. As regards access to this kind of development fund in accordance with federal government criteria, all the official language communities were systematically eliminated.

In a context in which the obligation to act in the area of minority community development was recognized, there would be this kind of program, which, at its inception, would put a question to the department: have you considered the impact of this program on the rural communities or official language communities? As a result, when this kind of program was established, the idea of adopting or proposing criteria that would enable these communities to access it would be taken into consideration.

**The Chair:** Thank you. That's all the time we had.

We'll continue with Mr. Godin.

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** Thank you, Mr. Chairman. Good morning, Commissioner. It's always a pleasure to see you in our committee.

I was listening to our colleague Mr. Lauzon earlier. If I understood correctly, he was asking why we should have an act when we already have departments complying with the spirit of Part VII.

Ms. Brunelle asked whether it wasn't the political aspect instead. It's a matter of political will. You never pass laws for the sake of will; you pass laws so that they pass. You never pass a law for people who want to respect that will; you do it for those who don't want to respect it. You don't pass a law because that's the political will; you pass it for all those who don't have the political will.

I'm going to give you an example. In recent weeks, I've cited examples that I really find insulting. They show arrogance. I can't even find the right words in my Acadian French to say what I mean.

*l'entree de garage de elizabeth de reine, la cinquieme avenue pour courber au parc de lansdowne et aux cochons soutient la route (chemin Hogs Back !) le pont de balançoire au pont fixe*

Imagine! Many thanks to the Government of Canada for the respect it has for us.

Another passage reads:

The federal Department of Human Resources and Skills Development is not responsible for the accuracy, identity or reliability of the content of offers posted on its Web site or transmitted to Canadians via the Job Alert Service.

What an insult! It's come to this!

With the amendments you propose to Bill S-3, would it become binding rather than declaratory? That's what I'm interested in.

Second, when we talk about political will, I wonder why the federal government appealed from the decision by the New Brunswick judge who ruled in favour of the Francophone communities and municipalities in the matter of the food inspectors who had been transferred. Those people won before the Appeal Court, and the government's prepared to go to the Supreme Court.

If there were a political will, the government wouldn't take the small Francophone communities from back home to the Supreme Court. That's why we need a law.

So with the amendments you're proposing, Commissioner, do you think that will reinforce the act so as to protect the communities, rather than simply wait for the Supreme Court to tell us that the government's right and can continue to disregard Part VII of the act?

● (0930)

**Ms. Dyane Adam:** As you'll agree with me, Mr. Godin, there's no such thing as a perfect act.

**Mr. Yvon Godin:** I agree. Otherwise, Parliament would be closed down and we'd have nothing to do.

**Ms. Dyane Adam:** The courts would no longer be necessary.

**Mr. Yvon Godin:** That's right.

**Ms. Dyane Adam:** So there can be no doubt that these amendments clarify the government's obligation to act. It's not enough to add clarity. The government has to have the will to carry out that obligation. That was mentioned.

This bill also affords the opportunity to make regulations, which are a very important tool. Regulations are, as it were, the guidelines issued by the government to achieve the object of the act. Since the federal machinery is very big and there are a number of players, it is important that we all have the same understanding of our obligations and the same guidelines. That's what we don't have right now. So the bill is definitely a positive addition.

Passing this bill will also enable the government to really sensitize and educate the federal government as a whole and to ensure that departments are really aware of their obligations. The idea would be to pass regulations and then, of course, to establish oversight and monitoring mechanisms to evaluate their performance on an annual basis, as all federal institutions must now be evaluated. They departments will be able to assess their performance not just on the basis of the other objectives of the act, but also on this aspect of our act.

As parliamentarians, you'll have a tool enabling you to monitor the act's implementation more effectively, just as I would also be better equipped to evaluate that.

**The Chair:** Thank you, Mr. Godin.

I'd like some clarification on another point. In keeping the amendment to subsection 77(1), we make the act binding in any case. We interpret it as binding.

**Ms. Dyane Adam:** Yes, if by "binding" you mean the obligation to act.

**The Chair:** Yes. It's an obligation to act, indeed.

**Ms. Dyane Adam:** Yes, an obligation to act.

**The Chair:** Thank you.

Mr. Godbout.

**Mr. Marc Godbout (Ottawa—Orléans, Lib.):** Commissioner, it's my turn to welcome you and your entire team. In the same line of thinking, if we amend the Official Languages Act, it's because we want to come to an obligation to act, at a minimum. That's nothing more or less than Parliament's intent in the circumstances.

You're suggesting an amendment to subsection 41(2) as proposed in Bill S-3. First of all, I prefer the original text submitted by Senator Gauthier. If we were to make changes to it, we'd remove the

word "assurer" from subsection 41(2) as proposed. However, we would make no amendment to the proposed subsection 43(1).

What bothers me personally in the proposed subsection 43(1) is: "The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate [...]". That scares me a little. It reminds me of Ontario's Bill 8 on French-language services. If we remove the word "assurer" from the French text and keep the words "mesures positives" — I believe you referred to that expression — wouldn't we run the risk of being told, if the court were to interpret this, that there's no consistency between subsections 41(2) and 43(1)? According to the latter, the minister only takes measures he or she considers appropriate. The problem is that subsection 43(1) is the one that concerns implementation.

I'd like you to allay my fears.

● (0935)

**Ms. Dyane Adam:** Mr. Chairman, it's proposed subsection 41(2) that refers to implementation. All federal institutions must be committed to it. Proposed subsection 43(1) refers to what? To coordination of the process by Canadian Heritage.

**Mr. Marc Godbout:** If I may, Commissioner, thus far, it is the interdepartmental aspect that has caused implementation problems. That's why it troubles me that we're not reinforcing it, as stipulated in subsection 43(1) proposed in the bill. That's only one fear.

Let's be clear on this: the subsection 41(2) you propose goes much further than we've ever gone, but I'm afraid we have a problem with it: why is there an obligation in some cases, whereas, in others, there are only measures that are considered appropriate?

**Ms. Dyane Adam:** As I said a little earlier, we agree. I definitely prefer the original wording, but we also have to consider that the concern for some is the federal government's obligations, since this part of the act also concerns provinces and other jurisdictions. That's not included in the other wording.

The purpose of the act is to clarify the obligation of our federal institutions, thus to clarify positive measures that must be taken. That's already positive. Perhaps you could also talk about positive measures in section 43. That would be repeating the same thing.

This is really a part of our act that urges collaboration and cooperation with other players. It states: "[...] as that Minister considers appropriate [...]". Where there is collaboration, there is indeed a more random element, if I may put it that way. It's not as though these were our institutions.

I feel less comfortable with that. It could be misinterpreted.

● (0940)

**The Chair:** Thank you. We'll move on to the second round. We'll start with Mr. Poilievre.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Thank you. One thing troubles me about Bill S-3. That's the fact that we'll be going to court a lot, that there'll be court actions, which won't improve our government's language policies. A lot of money will go to lawyers, but there will be very little in the way of results.

Would your amendment prevent court actions? What do you think the results will be?

**Ms. Dyane Adam:** I don't think there's any justification for thinking that clarifying the federal government's obligations will increase the number of court challenges or permit challenges under Part VII. I'm going to tell you why.

I mentioned earlier in my presentation that, since 1988, under the Official Languages Act, we've been able to institute challenges under certain parts of the act, particularly Part IV. We haven't had more than 10 or 12 challenges. So that's not excessive, if you compare with other acts.

In most instances when the Office of the Commissioner went to court — because the Office also has the option of filing suit against federal institutions — it was against Air Canada, VIA Rail and other institutions that refused to recognize their obligations, that is to say that they refused to render services to the Canadian public under Part IV of the act. So we had to take them to court so that they would agree to do so because it was their duty.

Court challenges are really used as a last resort by us, at the Office of the Commissioner, by individuals and the communities. The number of challenges speaks for itself.

If the government acts — here I mean pursuant to its obligation to act — there will be very few challenges. Furthermore, it has the opportunity to make regulations that will in a way circumscribe and define what is meant by “obligation to act”. At that point, you've much further reduced the number of opportunities for challenges over matters that could be characterized somewhat as...

**Mr. Pierre Poilievre:** With your amendment, the government will have an obligation to prove in court that it has made a genuine effort to really act, but it won't necessarily have an obligation to prove a specific result. So that changes the act substantially.

**Ms. Dyane Adam:** Yes, the government wouldn't be held responsible for the fate or what happens to them. It can invest in culture, for example, but it is not responsible for determining whether there will really be an extraordinary cultural vitality.

**Mr. Pierre Poilievre:** Yes, all right. That's different. But does the senator support this amendment? Have you had occasion to talk to him about it?

• (0945)

**Ms. Dyane Adam:** Yes, I have spoken to him about it, and I believe he understands it clearly. In his mind, it's important to clarify the obligations. I can't speak for him, but what I understand is that Senator Gauthier is very concerned about the results of this bill. He understands that the duty to act is ultimately more important and that it is harder for the government to be responsible for the result.

**Mr. Pierre Poilievre:** Thank you.

**The Chair:** Thank you.

Ms. Boivin.

**Ms. Françoise Boivin (Gatineau, Lib.):** Good morning to the three of you. I hope this is the last time you appear here to discuss Bill S-3. It isn't that I don't like you, but I'm anxious for it to be passed.

That said, one of the very serious objections we've heard was the fact that Quebec should be exempted from the application of Bill S-3. Incidentally, I agree with you; I would have preferred that no amendments were proposed by anyone.

However, I'd like to know your opinion on the two options: either we decide to move forward without the two amendments you propose, that is to say with the act as it stands, or we consider the two amendments you're proposing.

In that context, would it be wise to exclude Quebec from the application of Bill S-3?

**Ms. Dyane Adam:** No, I don't see why we would exclude a province. First, in my view, the initial bill didn't enable the federal government to interfere in provincial jurisdictions. However, the federation is a collection of at times very healthy tensions. It's all right for there to be different points of view.

By not touching section 43, that is to say by leaving it as it stands, we avoid this kind of debate based on certain insecurities. We also prevent a very good bill from being voted down because of the debate over one aspect of the act. It is true that section 43 as proposed by Senator Gauthier is better than what appears in the original act. If that means that it's the stumbling block of Senator Gauthier's bill, I believe we have to consider the insecurities, the concerns, and ultimately come to an agreement.

**Ms. Françoise Boivin:** I want this to be very clear. Based on your experience, your knowledge and your study of the bill, case law and what exists, if we decide there won't be any amendments, do you have any concerns, insecurities? If so, do you think those concerns are warranted?

**Ms. Dyane Adam:** I didn't really see that, in amending section 43, the federal government was assuming greater power to interfere.

**Ms. Françoise Boivin:** Thank you.

That's all for me. If there's any time left, Mr. Chairman, someone else may take my turn.

**The Chair:** There is a minute and a half left.

Mr. D'Amours.

**Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.):** Thank you for being here today, Commissioner. I'd simply like to return to the point you made earlier, that there had been roughly 12 challenges since 1988. Obviously the act wasn't enforceable. Section 77 made it a little more difficult for the communities or groups to make demands.

But in the case of the amendments you're proposing for Bill S-3, even though it's been said that they will make it possible to institute court challenges, the act will nevertheless be much improved, which should limit court challenges. Ultimately, if the act is well made and there is a will to move forward, people definitely won't go to court simply for the fun of going to court.

• (0950)

**Ms. Dyane Adam:** I'm not sure I understood your first remark. The act is enforceable as it stands right now, particularly certain parts. Let's agree on that.

**Mr. Jean-Claude D'Amours:** Except Part VII.



**Ms. Dyane Adam:** That's correct. Parts IV and V are enforceable, and we would be adding Part VII. When I referred to court challenges, that was under Parts IV and V.

As for the other question, pardon me but I've forgotten it.

**Mr. Jean-Claude D'Amours:** It concerned an aspect I would like to return to because we may run short of time.

**Ms. Dyane Adam:** Yes, if the act is well made...

**Mr. Jean-Claude D'Amours:** If the act is well made, ultimately, groups won't have any reason to go to court simply for the fun of it.

**Ms. Dyane Adam:** There are two requirements for avoiding court challenges. First, an act has to be really clear and governments and institutions must understand what their obligations are. Second, there has to be a government will to abide by the act and to act in accordance with it. When there is good will, things are fine.

**The Chair:** Thank you.

We'll continue with Mr. Côté.

**Mr. Guy Côté (Portneuf—Jacques-Cartier):** Thank you, Mr. Chairman.

Thank you very much, Ms. Adam. I'd like to raise two subjects. These are more comments than questions. You said that there have been 12 court challenges since 1988. That's nevertheless an average of one challenge every 18 months. So this is clearly understood, there is a more militant fringe of the Anglophone community in Quebec — I don't mean the Anglophone community as a whole — which, since the French Language Charter and Bill 101 were passed, has regularly tried to invalidate certain provisions through court challenges. So our concern is well founded. Will it be substantiated or not? Naturally, we hope not, but that concern persists because certain groups that are more militant than others are merely waiting for the opportunity to undo the French Language Charter. Naturally, the proposed subsection 41(1), in particular, is a concern for us.

I was very pleased to hear you say a little earlier that, if the bill were to be rejected as a result of section 43, perhaps it might be better not to amend it. However, I am less in agreement with you — although I may have misunderstood your answer to Ms. Boivin — when you say that, even amended, section 43 did not necessarily mean an encroachment on the jurisdictions of the provinces and Quebec. Perhaps my analysis is wrong, but that section states that Canadian Heritage would take measures to advance the equality of status and use of English and French in Canadian society, etc. We can also see the various areas where that amendment would apply. Thus one very clearly sees that the idea is to encourage and support the learning of English and French. As far as I know, that happens mainly in the field of education, which is still a provincial jurisdiction.

The idea is also to encourage and assist the provincial governments in promoting the development of the Francophone and Anglophone minorities, and particularly in providing them with provincial — I believe that's quite clear — and municipal services in English and in French. It seems to me that, despite the claims occasionally made by the government, the municipalities are still under the jurisdiction of the provinces and Quebec. Although we have a lot of questions about the amendments to section 41, in our view, section 43 is simply unacceptable. We can't accept it as it is

currently worded in Bill S-3. That would have very specific and very direct effects on provincial jurisdictions.

**Ms. Dyane Adam:** With your permission...

**Mr. Guy Côté:** It encourages; it does not compel.

**Ms. Dyane Adam:** That's correct. Nevertheless, this clause encourages governments to cooperate, in a manner consistent with jurisdictions.

• (0955)

**Mr. Guy Côté:** That's currently the case.

**Ms. Dyane Adam:** You mentioned education. Currently, and it's been this way for many years now, the federal government and the Quebec government sign an education agreement roughly every five years to support English-language instruction for young Francophones and French-language instruction for young Anglophones. The federal government provides a portion of that, and Quebec of course assumes much of the cost since that's its jurisdiction. That's in existence, and there's nothing new about it. This kind of cooperation has been around for decades.

It is important to bear in mind that the Quebec government has passed legislation on the Conseil exécutif that may address your concerns. It provides that every agency — that could be in health, social services, early childhood or other fields — that receives 50 percent of its funding from a Quebec ministry must obtain approval from the Conseil exécutif before reaching an agreement with the federal government. If that's your concern, Quebec has made it so the federal government has a great deal of trouble circumventing provincial authority. Not all the provinces in the country have this kind of protection, but you do.

This section under the Official Languages Act encourages the federal government to establish agreements with the provinces in areas of provincial jurisdiction.

**Mr. Guy Côté:** Pardon me for interrupting you, but your five minutes are already up.

Wouldn't section 43(1), as amended, alter that balance?

**Ms. Dyane Adam:** No.

**The Chair:** Thank you, Mr. Côté.

In any case, in your amendment, you drop the section 43 proposed in Bill S-3.

**Ms. Dyane Adam:** We would keep the original version.

**The Chair:** Consequently, you keep the original version.

**Ms. Dyane Adam:** Yes.

**The Chair:** Thank you.

We'll finish the second round by turning the floor over to Mr. Godin.

**Mr. Yvon Godin:** Thank you, Mr. Chairman.

If you look at the act as it stands, without the amendments of Bill S-3, and if the government had wanted to do everything, what would that have changed? I don't know whether I'm making myself understood.

Considering the act as it stands, which states that this isn't binding, if we had a government that was...

**Ms. Dyane Adam:** ...truly committed...

**Mr. Yvon Godin:** ...and that did it, would we be violating the regulations or powers of Quebec to a greater degree?

The government would have the choice. Depending on how it's interpreted, it could do so in any case. It would be said that no one is frustrated over that and that there's no problem. There's just one thing: we now have a government that doesn't want to take Part VII into consideration, and there will be others who don't want to do so either.

However, the intent of Part VII of the act is to assist the communities. Our problem stems from the fact that we feel it doesn't do that or that certain departments don't do it. That's the only difference between the two. I don't know whether I'm making myself understood.

For example, having regard to Part VII, could the Government of Quebec, which is going to promote this and that — I use the example of the Quebec government because it's worried about this — say that we can't do that because we only intend to do it and it doesn't want us to do it? I don't think that's the way it is.

**Ms. Dyane Adam:** As the act stands, if the federal government manages to inspire the entire federal administration to comply with the objectives of Part VII, that government will have to work with its partners. It can't go away and disregard the Canadian federation. I think that much is clear.

In my view, that's not the purpose of the bill; the idea is really to clarify the fact that the federal government has an obligation to act and to enhance the vitality of the minority communities. We're talking about minorities. We know that, in a democracy, the majority thinks for the majority. That's why we have laws that protect the minorities.

**Mr. Yvon Godin:** Even if the government decrees that, under the old or present act, this is only declaratory, not binding, even if it acts on its thinking and discharges its obligations, we're not interfering further in the provinces' areas of jurisdiction.

• (1000)

**Ms. Dyane Adam:** No.

**Mr. Yvon Godin:** However, if it becomes binding, it forces the government to say that these aren't just words written on paper, that it will now be required to act, that it will not further violate provincial jurisdictions. I think that's the important point.

**Ms. Dyane Adam:** That's correct. As we say in English,

[English]

it's a non-issue.

**Mr. Yvon Godin:** Exactly.

[Translation]

**Ms. Dyane Adam:** That means that this bill is intended to hammer home this message to federal institutions: "You have an obligation to act."

**Mr. Yvon Godin:** For example, the government has an obligation to act. The Francophone communities in my region, the municipi-

palities, have said it had an obligation to act. However, it took our institutions in Shippagan and wanted to send them to Shédiac. The government said at the time that it didn't have an obligation to act and that it would take the case to the Supreme Court to show them it didn't have an obligation to act.

In my view, that's when we help the communities with regard to the institutions of the federal government, not those of the provincial government.

That would really reinforce Part VII.

**Ms. Dyane Adam:** That would clarify it.

**Mr. Yvon Godin:** That would clarify it. Thank you.

**The Chair:** Thank you, Mr. Godin.

We're now on the third round.

Mr. Vellacott.

[English]

**Mr. Maurice Vellacott (Saskatoon—Wanuskewin, CPC):** Thank you.

Thank you, Ms. Adam, for being here again today.

We've had a couple of ministers here in the previous days, and you've obviously followed the testimony in Hansard, or maybe on television, of Mr. Cotler and Ms. Frulla. They have indicated that the bill, as it stands—and you're well aware of that, no doubt—is not workable, which is the way that Minister Frulla puts it. So that seems to be the official position of the Liberal government in terms of it not being totally in agreement with the bill as it stands here.

So how do you respond to that, and particularly to Minister Frulla's suggested changes to Bill S-3? Are they ones that would suit your idea of what the bill should be, or where are there flaws in her reasoning?

**Ms. Dyane Adam:** In my presentation I mention that you have received a number of witnesses over the past weeks. I think they have more or less given you sufficient material to say that what was being proposed as amendments was not really acceptable. It was diluting the intent of the bill so much that you might as well not touch it. I said that specifically when I presented.

What I am proposing are amendments to Bill S-3 that take into consideration some of the concerns expressed by the government as well as other parliamentarians, trying to focus on the main issue, which is that the current formulation of the Official Languages Act with respect to part VII is not clear. There is sufficient evidence that it's being interpreted differently within the organization and within the federal apparatus, and that needs clarity.

**Mr. Maurice Vellacott:** Yes. My question, more to the point, though—you're just sketching it really clearly and simply here—is you're making the point, and stressing it in your spoken presentation as well, that you would like to see it executory, and she would want to see it maintained as declaratory in nature. There's a fundamental difference there.

**Ms. Dyane Adam:** I don't think it... Maybe the government should speak for Madame Frulla, but our understanding of what was being said is that there was a recognition by the government that, yes, it could be clarified that there was an obligation to act, if we could clarify that. I believe the intent of having regulations that would clarify the scope of the action of the government is also something the government is supporting, and also the possibility of going to court when it's the last recourse.

My reading of the government is that. But again, I cannot speak for the government.

**Mr. Maurice Vellacott:** Your reading is not that her position is she wants it declaratory, then? You don't see that in her position at all?

**Ms. Dyane Adam:** No.

I guess there are echoes there.

**Mr. Maurice Vellacott:** With due respect, these are committee members. It's not the official position of the government. They're not cabinet; they don't represent government. There's a big difference there.

**Ms. Dyane Adam:** I'm not government either; I'm the commissioner. I'm even less the government than these people.

• (1005)

**The Chair:** Thank you, Mr. Vellacott.

[*Translation*]

We'll continue with Ms. Brunelle.

**Ms. Paule Brunelle:** Section 43 as proposed in Bill S-3 states the obligation of the Department of Canadian Heritage to advance the equality of status and use of English and French.

First, I'd like to know exactly how that will be done. Can you give us some specific examples? I feel that the lack in Bill S-3 of any specific criteria for results that must be achieved is a real problem.

The second element is the fact that, in Quebec, English cannot have the same status as French. We know that French is not only the official language of Quebec, but that it also forms the fabric of our culture and identity. It's obviously impossible for us to think that English might be in danger, in view of the overwhelming majority who speak English right across North America.

We definitely believe that, with a strong majority that speaks French in Quebec, we're helping Francophone minorities across Canada. In this regard, I feel this work is well done. With this balance that we've established through hard struggle, we definitely wouldn't want to guarantee that there's an imbalance between sides. That's our great concern.

First, since the criteria are very unclear, I'd like to have some specific examples. Furthermore, how do we intend to ensure the equality of both languages in Quebec? It seems to me that excluding Quebec from this bill would be the best solution. I'm sticking to that position.

**Ms. Dyane Adam:** Before answering that, you have to realize the consequences of what's just been said. Let's go back to the agreements between Canada and Quebec.

Would you want to deprive Quebec of the opportunity to receive funding, as was said, to help young Francophones?

**Ms. Paule Brunelle:** There could be a right to opt out with full compensation... We're not yet talking about money.

**Ms. Dyane Adam:** I won't venture to discuss that.

A bill provides objectives, and figures, terms and conditions and guidelines can be set out in regulations. Consequently, the details are not usually found in a bill. You talk about excluding Quebec from this legislation, but that's never previously posed a problem. Moreover, we want to improve the bill to ensure that our federal institutions really understand the responsibilities and that they comfort the Francophone minorities.

**Ms. Paule Brunelle:** However, we wind up with an obligation to achieve results. Consequently, all of civil society would be involved. It seems to me, Madam, that we're changing things with this bill.

**Ms. Dyane Adam:** I don't see how. Could you explain to me how we're changing things?

**Ms. Paule Brunelle:** The Official Languages Act already contains everything needed to defend the French language. With Bill S-3, you want to ensure specific measures are taken. You want this to be enforceable, which is really legitimate for the Francophone communities elsewhere in Canada. You want to make sure you give the Official Languages Act some teeth. That's what I understand. The obligation to act is binding.

I think that definitely changes things for Quebec. You'll have greater strength. We saw that when we recently heard from witnesses from the Anglophone community who saw this as a breath of hope that they would be able to renew their challenges of Bill 101 and try to give English a more important place.

**Ms. Dyane Adam:** I don't think this concerns Bill 101. We're talking about the Official Languages Act. What is more, we're mainly talking about the communities. In fact, English and French are the official languages of Canada. In Quebec, it's French. There are English-language communities in Quebec. They are minority communities, and we're talking about supporting those communities in order to enhance their vitality and help them develop.

I'm sure that you toured Quebec and that you went to the Lower North Shore and the Gaspé Peninsula. There are Anglophone communities virtually everywhere; there are some on the Magdalen Islands. They are small communities that are similar to French-language communities elsewhere in the country.

These communities are not only rural, but their socio-economic conditions are also poor. So it's important to ensure that those communities, which consist of citizens of Quebec and Canada, can nevertheless live in their language and enjoy equality of opportunity.

I don't believe that Quebec — at least if I correctly understand Bill 101 and Quebec's legislative framework — opposes that: it's always taken care of its community. I don't share your concerns because Quebec acknowledges that it must support its Anglophone community, while respecting the primacy of French, which is the official language of that province.

•(1010)

**The Chair:** That's all the time available. We'll continue with Mr. D'Amours.

**Mr. Jean-Claude D'Amours:** Thank you, Mr. Chairman.

Commissioner, I'd like to continue along the same lines. When the representatives of Quebec's Anglophone communities came to meet with us, I never heard them say they would be happy to sue the government or institute court challenges after Bill S-3 was passed. I saw a very conciliatory community that sought full integration. It's a more amiable issue. We know that most Quebec Anglophones can marry and have a Francophone spouse. That's not necessarily the situation.

When you look at Quebec, you see you often find minorities in the rural regions. They're at a disadvantage. We know that all our rural regions complain. My riding is located in a rural region. When you look at rural Quebec, everyone complains of the same situation. Our regions are depopulating. If you take the Anglophone minority in Quebec living in a rural region, it definitely shouldn't complain about the fact that its population is declining. It's as though we're making sure that these communities don't have the necessary services or recognition. People are leaving, and the regions are even weaker. Bill S-3 will enable communities on the North Shore, on the Gaspé Peninsula, my region, in other regions, the region of Saint-Boniface, to help provide services even if it's in the language of the minority.

When you consider the federal institutions as a whole, regardless of whether they're departments or agencies, I believe it is an advantage for these communities — particularly if they're in rural regions — to be able to see a better future and to understand that they'll be able to continue living, and living well, in their home region.

**Ms. Dyane Adam:** You refer to rural communities. I'd like to make the connection because we're talking about federal institutions. I always want to emphasize that, even if it's applied differently in the provinces. We're still talking about our federal institutions.

I'm going to tell you about one case. Fisheries and Oceans suddenly changed the moratorium regarding fishing conditions on the Lower North Shore and in the Maritimes, which had consequences for Quebec's Anglophone community. In that case, this applies across the country when there are changes in our federal directives or programs. This had fairly serious consequences for this small Lower North Shore community that I went to visit. Going there, you realize that many of these people are uneducated, unilingual, almost exclusively Anglophone and quite isolated. Suddenly they're deprived of all opportunity. The federal government had made no provision for transition programs. Some of the families and some individuals came to work in Ontario. We're talking about long distances here. The impact this federal decision had on this Anglophone minority community was quite significant. It also had the same impact on the Quebec Francophone communities in that region. In that case, we really looked at the minority twice because they didn't have an opportunity to retrain, if I can put it that way. It's harder when you don't speak the language of the majority. The federal government should have made provision — and it subsequently did so — for a special program to enable those

families to be supported over a period of time. That's how I see the situation.

•(1015)

**Mr. Jean-Claude D'Amours:** Commissioner, could you say that, as a result of Bill S-3 and the changes or amendments you're suggesting today, the impact on these communities could have been limited?

**Ms. Dyane Adam:** Exactly. That's what we want. We want the government, when it makes a decision, to assess its impact on the minorities. Perhaps it will make the same decision or it may change it. Since it's aware that these are more vulnerable and often less supported communities, it may take different measures. To get what? This isn't discrimination. It will be in order to achieve equal results for the majority and the minority, to afford equal opportunity. For the minorities, that often means different treatment from that given to the majority. It was the Supreme Court that said that.

**Mr. Jean-Claude D'Amours:** Thank you.

**The Chair:** Mr. Godin has the floor. Then we'll move on to another round.

**Mr. Yvon Godin:** Thank you, Mr. Chairman.

Commissioner, after hearing all that, I'm going to make a comment that I find unpleasant. I'm nevertheless going to make it.

Let's take the National Defence Department recruiting centre, which they recently wanted to transfer from Bathurst to Miramichi. We had to file a complaint with the Commissioner of Official Languages. I brought this subject up here, in committee, one morning in the presence of a lawyer, Michel Doucet, a professor at the University of Moncton. I mentioned that, in the case of the recruiting centre that had been transferred to Miramichi, the people had not been consulted. That same afternoon, the Minister of National Defence contacted me. We set up a meeting with the community in Bathurst. Following the consultation, it was ultimately decided to leave the recruiting centre in Bathurst. I was proud of that.

Let's look at the case of the Francophone from Shippagan who worked for the Fisheries Department on contract for six years. When that job became permanent, he lost his employment because he didn't speak English. And yet, as I've mentioned on numerous occasions in the House and in committee, that fisherman didn't have to speak English or French to the fish. He nevertheless lost his job.

I regret making that comment, but it comes from the bottom of my heart. I think you can only feel that way when you're really in a minority situation. I'd like to have Quebec's support for the comment I'm going to make. They say that, if we're strong in Quebec, the rest of Canada is strong. Pardon me, but we don't feel that way back home.

We need something similar to help the minorities. In other countries, inhabitants learn six languages, whereas, in Canada, we have two official languages that we fight over.

Most of Quebec's inhabitants are Francophones. French is my mother tongue too. They've forgotten that we Acadians were the first ones to come to Canada 400 years ago. We celebrated that last year, whereas Quebec will do the same in 2008. We were the first ones. Where we have a majority Francophone province, I sense that Anglophones are treated the same way as they treat Francophones in the rest of Canada, and that's been going on for years now.

So, having thought about this, I'm making a cry from the heart. I want a bill that can help our minorities in our communities gain mutual respect. It wasn't easy for me. Most of the people of Acadia-Bathurst demanded that the Bathurst hospital be recognized as a Francophone hospital. I stood up and said, no, the hospital should be bilingual.

Let's treat our people in an equal manner. So let's be polite with each other and let's try to live together in this land. We're only visitors here. We won't be here long. My God, in everyone's best interests, let's try to respect each other. Let's provide services in both official languages and let's respect each other. That's all we're asking, nothing more. We're asking that our federal institutions respect us in the country's two official languages and that they give us the tools to shape that respect. Because we aren't respected.

Some of you might have found it funny when I read the newspaper articles. However, it wasn't funny for us.

I don't want to have anything to do with "des cochons" and "rue de la Reine Elisabeth". I want nothing to do with that. I want people in our communities, whether Anglophone or Francophone, to be able to be served with mutual respect. That's all.

That's a comment that comes from the heart of Acadians and minorities. I want the Anglophone minority to be served in the same way, that is with respect. They shouldn't be afraid of winding up in court. If ever they have to fight in court, it will be because the government hasn't met its obligations. That'll be the only reason. In that case, they'll have to be given the necessary tools.

I hope that's never the case and that the government will ultimately respect the two, and even three, peoples of this country: Anglophones, Francophones and the people of the First Nations. That's the thing to do in our country, which is the best in the world.

So I'll close with that. Thank you.

• (1020)

**Ms. Dyane Adam:** Thank you.

**The Chair:** Thank you, Mr. Godin.

So we'll do a fourth and final round, unless there's unanimous agreement to continue a little longer. Otherwise, it's the fourth round. We only have five minutes per speaker, perhaps even less.

Mr. Lauzon.

**Mr. Guy Lauzon:** I'm not sure I want to speak after Mr. Godin. That was a great deal of passion. I congratulate you, Mr. Godin.

Ms. Adam, you said that Bill S-3 is necessary in order to clarify the government's responsibilities.

Can you elaborate on that subject a little more? Do you think the government isn't aware of its responsibilities?

**Ms. Dyane Adam:** I indeed said in my speech that I had amply considered the question and published works on the subject in recent years. I may have failed to give examples.

The debate on Part VII of the act is not a recent one. Thirty federal institutions are designated as having a specific role under Part VII, whereas others — there are more than 150 in all — may contribute, have that responsibility and that obligation, but do not recognize it.

This is very difficult for the machinery of government. More than 150 federal institutions are subject to the act. However, if the institutions themselves are not even familiar with the wording of the act, how will decision-makers be able to design programs and policies consistent with that aspect of the act?

**Mr. Guy Lauzon:** The government's responsibilities are very clear.

**Ms. Dyane Adam:** No, they aren't clear.

**Mr. Guy Lauzon:** They're clear with regard to official languages.

**Ms. Dyane Adam:** No, they aren't clear. That's why we're discussing Bill S-3.

**Mr. Guy Lauzon:** Why are you saying they're not clear?

**Ms. Dyane Adam:** We're currently in court over this question.

**Mr. Guy Lauzon:** That's not because the responsibilities aren't clear.

**Ms. Dyane Adam:** No? What's the reason then?

**Mr. Guy Lauzon:** Perhaps it's because the government doesn't accept its responsibilities.

**Ms. Dyane Adam:** There's currently a debate on the interpretation of the federal government's obligations under this part of the act. That's why we're in court, to clarify the obligations.

Even though my team of lawyers and I have one interpretation of the act, we don't have the power of the courts to rule as to whether the government's interpretation or that of individuals is the right one. That's why we're in court.

We recently intervened in the case of one complainant whose complaint concerned another part of the act. The interpretation of the courts was that Air Canada — that was the corporation concerned — being subject to the act, had an obligation to provide service and could not argue its collective agreements as an excuse not to serve the Canadian public in both official languages. My office has been fighting with Air Canada for nearly two decades over the interpretation of its obligations. That's the issue.

• (1025)

**Mr. Guy Lauzon:** I'd like to bring up another subject. In English, you said:

[*English*]

And that is what the communities are also looking for: that the government take an interest in their situation and sit down and work with them to come up with a diagnosis and propose government actions adapted to their specific needs; that is the basic thrust of this Bill.

That was on page 3, in the second paragraph.

Let's compare right now to tomorrow, if Bill S-3 were allowed. How is that going to affect the community, positively or negatively?

**Ms. Dyane Adam:** Right now the federal institutions feel that when they set a program or a policy, they don't even have the obligation to consult the communities. They don't feel they have the obligation. Some may do, but they don't feel they have to.

**Mr. Guy Lauzon:** I'd like to get a practical application. How is Bill S-3 going to improve that situation?

**Ms. Dyane Adam:** Perhaps we should use a program as an example, since you're from the rural community of Stormont—Dundas—South Glengarry.

There is a program called Un Canada branché. In English, it would be Connecting Canadians, Industry Canada. This program considered the fact that urban communities are not isolated communities. That's almost the basis of their program.

We all know there are French communities in Toronto and some in Saint John. If there is a French community, they happen to live in a city, but they're very small and very isolated. They're automatically eliminated from that program. In conceiving such a program, at the beginning, the government would have to ask itself, based on their obligation to consider official language communities, whether such a program may need to be adapted.

**Mr. Guy Lauzon:** So you feel that if Bill S-3 were there, it would force them—

**The Chair:** That's all the time we have.

Madame Adam will have a chance....

**Ms. Dyane Adam:** Yes.

[*Translation*]

**The Chair:** Mr. Simard.

**Hon. Raymond Simard (Saint Boniface, Lib.):** Thank you very much, Mr. Chairman.

Welcome, Commissioner. Thank you very much for your contribution. I'm sure you've followed the debate with interest.

Amendments have been introduced, perhaps informally, by all parties. The one from our Conservative friends was mainly designed to protect the interests and powers of the provinces. You confirmed that. Your motion, which suggests no change to subsection 43(1), should somewhat allay those concerns.

In the past, our Bloc colleagues have very clearly stated that it was also in Quebec's interests not only to preserve Francophone numbers in the country, but also to enhance the vitality of the communities of their cousins outside the province. That adds one million members to the Canadian Francophonie. That represents 15 percent, which is a significant figure. We haven't heard a great deal about that in this committee.

We also heard the Anglophone and Francophone communities say very clearly that Bill S-3 was important for them.

I'd simply like you to tell us how fundamentally important Quebec's support is for the vitality of Francophones outside Quebec.

• (1030)

**Ms. Dyane Adam:** The Quebec government has publicly stated its willingness to get closer to the Canadian Francophonie. It recognizes the very specific role that must be played by Quebec, which is the main home of the Francophonie in Canada, in promoting La Francophonie and in supporting the minority communities. It has its own programs in order to support them.

I don't know whether I grasped the meaning of your question.

**Hon. Raymond Simard:** Programs may be asymmetrical, but not rights. That should be perfectly equal across the country.

**Ms. Dyane Adam:** Moreover, the Supreme Court's judgment in *Casimir* is quite clear. I don't remember the exact terms, but it recognizes that, in the implementation of English-language schools access rights — these are constitutional rights — specificity must be considered. It recognizes, as it were, Quebec's specificity and specific linguistic dynamics. That specificity is first of all recognized in the judgment's implementation.

**Hon. Raymond Simard:** I'd like to cite a specific example, that shows how passing the bill could change things for Francophones outside Quebec and Anglophones in Quebec. At the same time, that will answer the question of my colleague Mr. Lauzon.

I often cite the example of a project that was implemented back home, in French-speaking Manitoba. The communities got together to set up a broadband frequency for all Francophone communities in the province, in both official languages. Industry Canada did not approve the project. So we abandoned it. However, the Anglophone communities received funding; they bypassed the Francophone communities so that these services would be offered in English only.

If Bill S-3 had been in effect at the time — even with the amendments you propose — would it have changed that decision? The officials would have been required to be more sensitive and discharged their obligations toward the minority communities.

**Ms. Dyane Adam:** As I always say, the decision might have been the same for all kinds of other reasons. However, the decision-making process would have been subject to an obligation to justify the decision. When officials begin to incorporate factors such as those in the process of analyzing and thinking about both policies and programs, their decisions may often have to change. The worst, in the present situation, is that those factors aren't even on their table.

**Hon. Raymond Simard:** Thank you, Mr. Chairman.

**The Chair:** We'll continue with Mr. Côté.

**Mr. Guy Côté:** Thank you very much. Earlier you mentioned that Quebec may be the province, or one of the provinces, that most supports the minority language — and in the case of Quebec, its English — while respecting the primary of French.

While I think of it, I want to mention to Mr. Simard that my colleague noted earlier that it's important for La Francophonie to have a strong Quebec, precisely in order to spread the influence of French to all Francophones in Canada. Perhaps that point was slightly less apparent than others, but she just mentioned it. That wasn't so long ago.

Coming back to section 43, I have trouble with that section and the various interpretations that can be made of it. Earlier you mentioned the most recent Supreme Court judgment, in which the court indeed emphasized the importance of adjusting the various regulations based on specificities.

To the extent that the purpose of section 43 would be “to advance the equality of status and use of English and French”, would it have a direct impact on this kind of judgment? Or could the Department of Canadian Heritage have said that it could no longer make adjustments and that, under the act, it had to ensure this advance to equality as to both status and use?

I'll even go back a little further. It's the same wording. When reference is made to “equality of status”, I think of the signage legislation in Quebec. Is this opening a door once again to challenges of Quebec's signage legislation?

As regards use, I recently read an article on the problems involved in certain places — mainly in Montreal — in using French as the language of work. These situations still exist in Quebec. We're obviously talking a lot about the Anglophone minority in Quebec, which is one thing, but we shouldn't disregard the fact that French remains the minority language. Even though Quebec is the principal home of Francophones in Canada, French remains a minority language that needs protection.

I agree with you that the amendments made to section 43 shouldn't be there. One of the reasons for that is that they can alter this balance. You mentioned that there were already agreements. Yes, there are genuine agreements.

However, wouldn't amending the section precisely open the door for a minister of Canadian Heritage to say that there's no agreement and no choice since the act requires the minister to promote this equality?

•(1035)

**Ms. Dyane Adam:** No, the act does not allow the minister to do that. With your permission, we'll consider a specific, very current case. We're currently following up a study that we conducted a few years ago on businesses that operate in federal buildings in the National Capital Region, on the Quebec and Ontario sides. These are private sector businesses, but, since they are in federal buildings, their leases contained language clauses that conferred on merchants an obligation to post signs and offer services in both official languages.

When you consider the federal and provincial legislative frameworks, as regards Quebec...

**An hon. member:** That's contradictory.

**Ms. Dyane Adam:** You see, there's compatibility in this case because the federal legislative framework states that both official languages must be present, whereas the legislative framework in Quebec states that French must be predominant. Since this is a private matter, there is therefore no incompatibility. All right?

**Mr. Guy Côté:** Hence my question. So there must be equality of status and use. We're no longer talking about preponderance.

**Ms. Dyane Adam:** The federal government decides in its sphere of action. However, when the federal government is in an area of

provincial jurisdiction, it must act in accordance with the law that applies, which, in this case, is under provincial jurisdiction. The provincial government permits the use of both languages in Quebec, of course.

**Mr. Guy Côté:** In fact, section 43 doesn't concern the federal institutions; it concerns Canadian society.

**Ms. Dyane Adam:** Yes, it concerns the federal institutions.

**Mr. Guy Côté:** Not section 43 as amended.

**Ms. Dyane Adam:** It's not being amended. It's federal institutions that work with other partners, such as provincial partners. Look at the nature of the vocabulary. It states: “(d) encourage and assist provincial governments to support [...]” and “(e) encourage and assist provincial governments [...]”. So it's not to further the development of the communities, but rather to encourage and assist.

**The Chair:** Thank you, Ms. Adam. That's all the time we have. We'll conclude with Mr. Godin.

**Mr. Yvon Godin:** I don't have any further questions.

**The Chair:** Then we're finished.

**Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.):** Could I request unanimous consent to speak, even though I'm not a member of the committee.

I'm the bill's sponsor, and I believe this will be the last time we talk about it before you conduct the clause-by-clause consideration. Could you allow me five minutes?

**The Chair:** Does that suit everyone?

You can even use the time Mr. Godin had. You may make a final comment, Mr. Boudria.

**Hon. Don Boudria:** Thank you, Mr. Chairman.

I'm going to take up and support a point raised by Mr. Godin. This is somewhat consistent with what he advanced a little earlier.

First, I'll speak to the Commissioner. If we don't amend section 43, as you suggested a little earlier today, and as the government is perhaps preparing to do... I believe we were quite certain at the outset that section 43 didn't concern provincial jurisdictions. But now — if I can put it this way — are we doubly certain that's not the case?

•(1040)

**Ms. Dyane Adam:** It's the status quo. I don't think there have been any problems thus far.

**Hon. Don Boudria:** In fact, if we changed nothing, then we changed nothing.

**Ms. Dyane Adam:** Precisely.

**Hon. Don Boudria:** So there are only the amendments to section 41 to make it enforceable. I'm addressing my colleagues, particularly those in the Conservative Party, to say that, if we make it enforceable, it's so that there is an element of “enforceability”. It's so that people, if they need it, can have access to the justice system in order to defend themselves. That's the case for all the rest of the act. It's already the case, and there have only been 12 complaints in 10 years. That's really not that bad. We could add a section stating that it could only be enforceable if there weren't 133,000.

Rights were introduced whereby, for example, my children were able to receive their academic training in French in Ontario from elementary school to the master's level. That was the case of my son, and that's because we obtained rights under section 23 of the Constitution. Those are rights that I never had, but my son and my daughter had them. They had those rights because the act was enforceable and because people, at some point, had to go to court to say that they wanted their rights respected.

So I'm asking my colleagues today to ensure that, in other instances, we can provide the same rights that were taken away from me and perhaps from Mr. Lauzon, since he's a Franco-Ontarian as I am, and from others. So I would like us to be able to have those rights in other similar instances.

I agree that we want to amend the bill in order to clarify it, but please pass it so that we can provide more rights, not take them away. In that way, my children's children will have more rights, as

my son and my daughter had more rights than I did. That's what I'm asking of my colleagues.

That was my argument.

**The Chair:** Thank you, Mr. Boudria.

**Ms. Dyane Adam:** I would like to add "and the right to be equal citizens". That's what that means.

**The Chair:** On that note, I don't believe we have much to add.

Ms. Adam, Ms. Tremblay, Mr. Finn and committee members, thank you for taking part in this debate on Bill S-3.

I remind you that you have until noon on October 4 to file your amendments. So next week, we'll devote two meetings to the clause-by-clause consideration.

Good day.

The meeting is adjourned.

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