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Mr. Steven Blaney

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•(0910)

[Translation]

The Chair (Mr. Steven Blaney (Lévis—Bellechasse, CPC)): Good day everyone, and welcome to the 58th meeting of the Standing Committee on Official Languages.

Today, we continue to hear from witnesses on the Court Challenges Program. First, I want to welcome our witnesses: Ms. Sylvia Martin-Laforge from the Quebec Community Groups Network, Ms. Lise Routhier-Boudreau from the Fédération des communautés francophones et acadienne du Canada, accompanied by the Director of Communications, Mr. Quinty.

[English]

We have the privilege of a witness from the Canadian Constitution Foundation, Mr. Christopher Schafer. He is the director of this organization. Welcome.

[Translation]

Furthermore, joining us by videoconference, we have the Acting Director General of the Société des Acadiens et Acadiennes du Nouveau-Brunswick, Ms. Ghislaine Foulem.

Good day, Ms. Foulem.

Mrs. Ghislaine Foulem (Interim Director General, Société des Acadiens et Acadiennes du Nouveau-Brunswick): Good day, everyone.

The Chair: Welcome to our committee.

Before giving the floor to Ms. Sylvia Martin-Laforge of the Quebec Community Groups Network, I want to remind the committee that we have to vote at 11 a.m. and I would like us to set aside a little bit of time before then. The clerk informed me this morning that Minister Verner would be available to meet with us on June 19. So, I would like to have your opinion on this and verify whether we could suspend our deliberations on the Court Challenges Program in order to hear from her.

Furthermore, as you know, there is the case before the courts regarding the Court Challenges Program. According to the procedural manual Marleau-Montpetit, there is a convention that must be followed regarding cases before the courts. This is first and foremost a voluntary restraint on the part of the House to protect an accused person or any other party to a court action or judicial inquiry from suffering any prejudicial effect from public discussion of the issue. I will leave it up to your good judgment and I hope that I will not have to intervene. I simply want to remind you to use your judgment in deciding what questions to ask.

Sylvia Martin-Laforge, you have the floor.

[English]

Mrs. Sylvia Martin-Laforge (Director General, Quebec Community Groups Network): Members of the committee, Mr. Chairman, good morning, *bonjour*.

On behalf of the Quebec Community Groups Network, the QCGN, and its member organizations, I wish to thank you for inviting me to speak to you about the ramifications of the government's decision to abolish the court challenges program.

My name is Sylvia Martin-Laforge,

[Translation]

and I am the Director General of the Quebec Community Groups Network.

[English]

The network currently brings together 22 sectoral and regional organizations from the English-speaking minority communities of Quebec. The QCGN was established in 1995 and promotes the vitality of English-speaking minority communities.

I'll do my best with the few minutes that have been allocated to me today to demonstrate some of the successes of the CCP and its importance to English-speaking communities of Quebec.

As I said, the network was established in 1995. It has been an active member of the program since 2001. The QCGN has also had a representative sitting on the CCP's advisory committee on linguistic rights since 2002. This advisory committee keeps the court challenges program aware of the preoccupations of its members, particularly on behalf of both official language minority communities.

Let me be up front. I guess it's no surprise to you that the QCGN supports the CCP in its entirety and hopes that the Government of Canada will acknowledge the detrimental impact of its decision and act immediately to reinstate the program. Had the government consulted the QCGN or any member of its organization prior to the cancellation of the program, the government would have realized that it had monumental impacts for advancement of the rights of English-speaking minorities of Quebec.

Here are a few representative examples. In *Chiasson v. Quebec*, the Quebec Superior Court held that there were limits on the power of the Office de la langue française. It declared that the charter of the French language did not allow the Office de la langue française to prevent any employer from providing English-language programs in the workplace where French-language programs were already available to employees.

In *Quebec v. Blaikie*, the portion of the same law that made French the only language for all provincial laws enacted and the only language of Quebec courts was also struck down by the Supreme Court as unconstitutional. This example provided the groundwork to allow anglophones in Quebec the fundamental right to be heard in the language of their choice before the courts of Quebec.

As a follow-up to *Quebec v. Blaikie*, the Quebec Court of Appeal, in its decision rendered in the case of *Cross* in 1998, held that the government, in particular the Attorney General, had the duty to assign cases to a crown counsel who could conduct the proceedings in the official language chosen by the accused.

These cases are examples of the advancement of rights of the English-speaking minority in Quebec. In these instances, those petitioning the courts to have their rights recognized did not have the financial means to do so. The court challenges program helped them achieve the justice they sought. I wonder how these decisions could have been rendered without financial assistance from the CCP.

The successes of both official language minority communities are also important to the vitality of English-speaking communities of Quebec. Many examples—as in the case of *Doucet-Boudreau v. Nova Scotia*, which found that the government had the duty to create institutional structures to ensure quality education for children of official language minorities—have given us the opportunity to build bridges with francophone minority communities across Canada and learn from their experience to the benefit of the English-speaking minorities of Quebec.

Predicting the future is never an exact science, and that is particularly true with respect to both politics and law. I'm sure you would agree with that. One can never have an idea of when something untoward might happen—a law passed, a workplace rule introduced, an SOS Montfort of our own—that goes against one's constitutional rights.

● (0915)

The beliefs expressed in the Canadian Charter of Rights and Freedoms as well as in the Official Languages Act form the basis of Canadian society and guarantee the right to minority communities to challenge any element of legislation or action taken that goes against those fundamental principles.

It has often been said that governments exist to protect the rights of minorities, or that a democracy can be measured by how well it treats its minorities. The QCGN hopes that the Government of Canada will abide by that principle in the future.

Last, I wish to reiterate the importance for the Government of Canada to make a better effort to consult at times when it chooses to make major changes that will affect official languages in minority communities. Such practice could have avoided the controversy that arose from the cancellation of the court challenges program.

I would like to thank you, Mr. Chairman, for granting me the opportunity to speak to you today. I hope that my appearance marks the beginning of a dialogue with this committee on this and other matters pertaining to the advancement of linguistic duality in Canada and English-speaking minority rights in Canada.

Thank you. I look forward to questions.

● (0920)

The Chair: Thank you, Madam Martin-Laforge.

We'll now proceed with the Fédération des communautés francophones et acadienne du Canada. Ms. Routhier-Boudreau, would you please take the floor.

[Translation]

Ms. Lise Routhier-Boudreau (Vice-President, Fédération des communautés francophones et acadienne du Canada): Thank you. Mr. Chairman, ladies and gentlemen, members of the committee, you invited us to appear this morning and set out our views on the repercussions of abolishing the Court Challenges Program. The FCFA would like to thank you for giving us this time.

My name is Lise Routhier-Boudreau. With me is Serge Quinty, our Director of Communications. After the presentation, we will be very pleased to answer your questions.

At the outset, I would like to point out that the FCFA is currently the plaintiff in a case seeking to overturn all decisions made on September 25, 2006, including the decision concerning funding for the Court Challenges Program. You will understand that we cannot comment on the case, which is now before the courts.

Rather, in the few minutes I have today, I will attempt to provide a brief overview of the issue, and begin by setting out the principal gains that we owe to the Court Challenges Program in the area of linguistic rights. Second, we will look at the repercussions we feel abolishing the program will have.

The Court Challenges Program has been an essential instrument in both clarifying and furthering linguistic rights of the francophone minority in all francophone and Acadian communities of Canada.

Many language-related cases have been heard and settled with support from the program. Those cases include a significant number of landmark cases, which have made it possible for us to manage our own schools—for example *Mahé versus Alberta*, the reference regarding the *Manitoba Public Schools Act*, the *Association des parents francophones de la Colombie-Britannique versus British Columbia*, and many others. Other cases, such as *Doucet-Boudreau and Arseneault-Cameron*, have made it possible to specify the government's obligation in the areas of school and schooling language rights.

At present, there are over 600 French-language schools outside Quebec. This morning, I would like to ask all committee members the following question: if cases like those I have listed could not have been brought before the courts, would we now have as many French-language schools across Canada? I am taking the liberty of asking you this question, but I'm also taking the liberty of believing the answer is most likely no.

The Court Challenges Program has also made it possible to clarify government obligations in the area of providing French-language services. You are all familiar with the well-known Montfort case, which made it possible to save the only French-language teaching hospital west of Quebec. Then we have the Beaulac decision, which clarified the language rights of a defendant, while setting out the principles and interpretative framework applying to linguistic rights in Canada as a whole. Court proceedings were instituted by the Fédération Franco-ténoise in 1999. The case, which was heard in 2006, led to a decision by the Supreme Court of the Northwest Territories, recognizing that the territorial government had an obligation to provide its citizens with French-language services. Unfortunately, however, the Government of the Northwest Territories appealed the decision, and it will now be difficult for the Franco-People of the North to cover the costs of this new stage in the legal proceedings.

In short, we have no doubt that, since it was established in 1978, the Court Challenges Program has done a great deal to foster the development and enhancement of francophone and anglophone minority communities in Canada, and thus contributed to fostering the full recognition and use of both English and French in Canadian society. Its contribution to the vitality of francophone and Acadian communities is immeasurable. Thus, it is logical to arrive at the conclusion that eliminating the Court Challenges Program would have profound repercussions on those communities' survival.

Our government has said many times that it would pass constitutional laws, and then comply with them.

● (0925)

However, the history of the Court Challenges Program shows that, in spite of political will that goes in the right direction, statutes and regulations might need clarification in the area of language rights or the right to equality.

Moreover, the federal government cannot make the commitment of ensuring that provincial and territorial governments also pass legislation that protects and fosters the interests of minorities and disadvantaged groups. Yet 80% of language rights cases funded under the Court Challenges Program targeted provincial and territorial governments.

We should bear in mind that only the courts have authority to interpret statutes and to determine whether those statutes are constitutional. The government cannot provide an advanced guarantee that a given statute is constitutional.

Now let's take a look at the repercussions abolishing the program will have, given the dozens of cases that have made it possible to clarify and consolidate francophone minority rights and to further the development of communities. At the time the program's funding was cut off, there was still a great deal of legal effort required to ensure

that francophones can fully enjoy their constitutional rights and achieve genuine equality, as set out in the Canadian Constitution and the Official Languages Act.

We have already mentioned the case between the Franco-Northwestern community and the Government of the Northwest Territories, which will be appealed. Other court cases under way include Paulin versus New Brunswick, Caron versus Alberta, and the school surtax case in Nova Scotia. Those cases, like the cases before them, could well further the recognition, interpretation and application of language rights in francophone communities, and especially enhance those communities' ability to live in French.

Our work will not be done until such time as we achieve genuine equality between English and French, and full access to services in French, services that are of equal quality. The courts are never our first recourse, but we must all agree that, so far, they have been the entity that has enabled minorities to exercise their rights.

Until today, Canada has been to be a model in the way that it treats its minorities. And the Court Challenges Program has been invaluable in facilitating the interpretation of the Charter's written and unwritten principles. It is quite true that Canadians are extremely proud of the rights guaranteed under the Charter, but we must still ensure that those rights are applied and respected in practice.

To date, the CCP has supported groups representing ordinary Canadians, who would not otherwise have had the means to have their constitutional rights, which are guaranteed under the Charter, recognized and respected. Without the CCP, communities would have had difficulty in finding the financial resources needed to remind the federal government, as well as provincial and territorial governments, of their constitutional obligations and responsibilities in the area of language.

In conclusion, I should say that eliminating the Court Challenges Program is a clear failure on the federal government's part to fulfil its obligations under the Official Languages Act. In fact, eliminating the program with no consultation—a program that has played an essential role in the development of francophone and Acadian communities—is an act in breach of Part VII of the Official Languages Act, and in breach of the government's commitment to support the development of minority communities.

For all the above reasons, as indicated by Graham Fraser, the Official Languages Commissioner, in a speech at the Sommet des communautés francophones et acadienne, the government would do well to take rapid action in reviewing its decision to abolish CCP funding.

Thank you for listening. Thank you Mr. Chairman. We would be pleased to answer your questions.

● (0930)

The Chair: Thank you, Ms. Routhier-Boudreau. We will now move to Mr. Schafer, of the Canadian Constitution Foundation.

[English]

Mr. Christopher Schafer (Director, Canadian Constitution Foundation): Thank you and good morning.

My name is Christopher Schafer, and I'm a lawyer at Gowling Lafleur Henderson, in their advocacy and government relations practice group. Today I'm here as a director on the board of the Canadian Constitution Foundation.

The Canadian Constitution Foundation exists to protect the constitutional freedoms of Canadians through education, communication, and litigation. Among other things, the foundation supports equality before the law, equal rights and equal opportunities for all Canadians, and special privileges for none. The foundation is supported in the work it does by Canadians who voluntarily donate their money.

The Canadian Constitution Foundation supports the elimination of the court challenges program. All Canadians, through their tax dollars, have paid to advance the public policy agendas of various special interest groups who received court challenges program funding, whether they agreed with those agendas or not. This is unfair.

This unfairness can be illustrated by example. Under the section 15 equality provision of the Charter of Rights and Freedoms, human dignity is the central element of equality. In order for an impugned government action to constitute an infringement of section 15 equality rights, the action must be held to detrimentally impact a claimant's human dignity by perpetuating or promoting the view that an individual is less capable or worthy of recognition or value as a human being or as a member of Canadian society.

For some, such as those groups that have historically obtained funding under the court challenges program, human dignity is violated when, for example, receipt of welfare is dependent on participation in job training programs. For them, a welfare law that reduces welfare payments for those who refuse to participate in training-related programs offends human dignity because human dignity can only emanate from the state via bigger government and related expenditures. For others, however, such welfare laws enhance human dignity because they foster independence rather than dependence, and feelings of self-worth rather than self-loathing. Thus, while the pursuit of human dignity is capable of manifesting itself in the pursuit of substantive equality of result, in the opinion of some, it is also, I argue, equally capable of manifesting itself in the pursuit of individual liberty and equality of opportunity.

To solely fund those groups that argue that only one vision of human dignity exists under section 15 of the charter is unfair. In the case of the Canadian Constitution Foundation, it arose from a court challenge launched by Nisga'a Indian Chief Mountain and Nisga'a matriarch Mercy Thomas, who continue to challenge the Nisga'a Final Agreement for violating their constitutional rights. This is a current, ongoing battle in the courts. They've persisted in their challenge for over seven years without any government funding, relying on the generosity of Canadians who continue to donate money to this cause voluntarily.

Despite any litigation funding from the court challenges program, Chief Mountain's constitutional challenge continues to advance. This is the way it should be. Chief Mountain is, arguably, more disadvantaged than any of the groups that received court challenges program funding in the past. Members of linguistic minorities in

Canada are far more numerous and have far more resources than Chief Mountain and Mercy Thomas.

Government funding in respect of language issues and minority rights invariably advances a particular philosophical viewpoint to the exclusion of others. Constitutional issues are animated by numerous perspectives, not only that of the government and particular minority, or in this case, the language group, but by the interest of other minorities and the interest of members of a minority group who do not feel represented by the group pursuing the litigation in their name.

Canadians should not be compelled through their tax dollars to contribute to causes with which they disagree. Canada's Constitution belongs to all Canadians, not just those who agree with the ideology of the court challenges program. The elimination of the court challenges program has put all groups on an equal footing, at liberty to raise funds from their own supporters to support their own causes. This is fair.

Thank you. I look forward to your questions.

● (0935)

[*Translation*]

The Chair: Mr. Schafer, thank you for your comment.

Ms. Foulem, can you hear me properly?

Mrs. Ghislaine Foulem: Yes. Can you hear me?

The Chair: Yes, Ms. Foulem, we hear you very well. Please go ahead with your comments.

Mrs. Ghislaine Foulem: Thank you.

Good afternoon, everyone.

On behalf of the Société des Acadiens et Acadiennes du Nouveau-Brunswick, I would first like to thank committee members for this opportunity to present our position on the Court Challenges Program and its importance to all official language communities in Canada.

My name is Ghislaine Foulem, and I am the Acting Director General of the SAANB.

As you know, the SAANB is a provincial organization that defends and promotes the rights and interests of the Acadian community in New Brunswick. In that capacity, it has a number of times received support from the Court Challenges Program, support that made it possible for us to achieve significant gains for all Acadians and francophones in the province.

If you would allow, I will give you a number of concrete examples that demonstrate how important the Court Challenges Program is.

In 2001, we received CCP support for the Charlebois case on bilingualism in municipalities. That support enabled us to obtain amendments to the Official Languages Act of our province. For almost eight years now, the SAANB and a resident of New Brunswick have been seeking to have the RCMP recognize its linguistic obligations in providing police services on behalf of the province of New Brunswick.

The Federal Court ruled in our favour, but Justice Canada and the RCMP appealed the ruling. In October of this year, the case will come before the Supreme Court. That proves how well-founded our arguments are. It goes without saying that, without CCP support, we could not have waged the legal battle needed to achieve respect and recognition of the principle of equality for official language communities found in the Charter of Rights and Freedoms, under sections 16.1 and 20, as well as in the New Brunswick Official Languages Act.

A number of other court challenges have been made possible by the CCP, including a challenge to the federal riding boundary map that enabled us to keep communities of interest together, the case of the Forum des maires de la Péninsule acadienne versus the Canadian Food Inspection Agency, and the case of parents in Saint-Sauveur who fought against closure of the town's school.

We have also used the Court Challenges Program to conduct legal research on the New Brunswick Regional Health Authorities Act, post-secondary education, and the legal status of professional associations.

We have to acknowledge that, every time the courts rule in our favour, in whole or in part, a large step forward is made towards strengthening the vitality and fostering the development of Acadia and New Brunswick. However, there is still a great deal left to do in the areas of health, education, and the language in which services are delivered, to name but a few, in order to achieve genuine linguistic equality for official language communities, even in Canada's only officially bilingual province.

I will give you one last example which, in our mind, constitutes a breach of the act, for which official language communities are all too often forced to bear the repercussions. As the principle spokesperson for the Acadian community, the SAANB was not consulted in the program review undertaken by the Conservative government. And I should point out that the review led to eliminating support for the Canada Volunteerism Initiative, cuts to Status of Women Canada, cuts to literacy programs, the elimination of international practicum programs for young people, and—at the head of the list—elimination of the Court Challenges Program. Yet, pursuant to the Official Languages Act of Canada, the government has an obligation to consult communities on any political issues, or any program, that might have an impact on them.

The Acadian and francophone communities believe that these measures are undermining the very foundations of our ability to mobilize and defend our rights, though without the Court Challenges Program our communities cannot prove that.

Of course—and I would like to reassure all committee members on that score—neither the SAANB nor the Acadian community sector organizations like to go before the courts as a first recourse to obtain justice. As far as we can, we prefer to work through cooperation, consultation and dialogue. In fact, that is what we did by sending an open letter to the Prime Minister in October, and by taking part in the national movement to counter the budget cuts.

• (0940)

At the initiative of the Moncton University Students Federation and of the Fédération des jeunes francophones du Nouveau-

Brunswick, a coalition has been established. In the Atlantic region, the Société nationale de l'Acadie has begun a petition on the Internet, and a francophone team made up of official language minority community representatives has also met with some 40 members of Parliament in Ottawa, members of different political parties, to help them become more aware of the repercussions these cuts are having on their communities. We have not been successful, however.

When the rights of francophone citizens seem to be clearly ignored or violated by the government, which formulates and is responsible for applying legislation, do we have any choice but to go to the courts? But as our case against the RCMP clearly shows, challenging some government decisions is a cumbersome and lengthy process.

Our financial and human resources are extremely limited, and without CCP support we are, in a sense, a hostage, without any ability to defend ourselves. The federal government has an army of legal counsel, paid using taxpayers' money, to defend the decisions that threaten our gains, violate our rights, and run counter to its own obligations.

The Official Languages Commissioner shares the fears of official language communities. Before this committee, Graham Fraser stated that the government's actions, and in some cases the government's failure to act, sow doubt regarding the sincerity of its commitment to implement the new Part VII of the Official Languages Act. Yet we remember the considerable support Bill S-3 received from the Conservatives, who are now the party in power. The Court Challenges Program was the last recourse for official language communities who felt that the authorities had violated their rights.

By refusing to reinstitute the Court Challenges Program, the government is seriously undermining the ability of civil society to express its democratic will, it is undermining the development of our communities, and it is tarnishing Canada's international reputation for justice and democracy.

In conclusion, I would add that the SAANB has every confidence in your committee's work. We are counting on you to persuade Prime Minister Harper to overturn a decision that all official language communities are decrying with a single voice. This is not a question of political partisanship. It is a question of simple justice and fairness.

Thank you.

The Chair: Thank you for your comments, Ms. Foulem.

We will now begin the first round of questions by members of the committee. The first round is seven minutes, and that includes comments, questions and answers.

Given that my legal education is somewhat limited, I would just like to remind you that we will try to remain focused on political issues, and not stray into legal matters.

Ms. Folco.

Ms. Raymonde Folco (Laval—Les Îles, Lib.): Thank you, Mr. Chairman.

My first question will be very brief, and I would like an answer from Mr. Schafer that is just as brief.

Mr. Schafer, you are the Director of the Canadian Constitution Foundation. I noticed that the title appears in English only. Could you tell us what the foundation is, first of all? Generally, when a witness appears before us, he or she introduces the organization. Secondly, can you tell me whether you yourself are bilingual?

• (0945)

[English]

Mr. Christopher Schafer: The Canadian Constitution Foundation is a relatively new organization. It's a charitable organization. As I stated in my opening oral presentation, it exists to protect the constitutional freedoms of Canadians through three things: education, communication, and litigation. For example, it is holding a conference in the fall in Toronto about liberty. It holds conferences. It creates student chapters at local law schools.

Ms. Raymonde Folco: Thank you.

Can you answer my second question?

[Translation]

Mr. Christopher Schafer: I do speak a little French, but I would not say I am bilingual.

Ms. Raymonde Folco: Mr. Schafer, you say that you are a foundation. Generally, a foundation receives funds. What is the source of the funding with which you operate?

[English]

Mr. Christopher Schafer: For example, I can go online, and I have donated \$25 from time to time, so individual Canadians can fund the organization online, and you can too, if you'd like. We are also funded by different organizations in Canada. We don't receive government funding.

Ms. Raymonde Folco: That's not particularly my....

I would really like to have an answer that is a little fuller, and I wonder if perhaps you're not able to give us the answer that I require here. But I think it would be interesting for members of this committee to have a fuller understanding of your foundation, Mr. Schafer. I understand that individuals can give money, but I'm sure that if you're putting together a conference and so on and so forth for across Canada, and you're paying for a website, it's not the \$25 that you're getting from one and the other that is going to pay for all this.

I'd be very interested in your letting the members of this committee, through our chair, have more ample and more specific information as to how your foundation is funded.

Mr. Christopher Schafer: For example, funding would be available to us, and it has been through such organizations as the Donner Canadian Foundation. That is one organization that contributes funds to our group, and any Canadian who is capable is allowed to log onto our website, where there's more specific information. We have annual reports available.

Ms. Raymonde Folco: The only thing I'm asking, because time is very short, is if you would send that information to the chair, and he will make sure that we get it all. I know you want to explain, but there is very little time.

Mr. Christopher Schafer: I can undertake to provide an annual report; for example, our most recent annual report.

Ms. Raymonde Folco: My question is addressed to Madame Martin-Laforge. I'd like to say how happy I am to see you here personally, and the group that you represent in Quebec. I'm very happy to see that we are at long last recognizing that linguistic minorities across Canada also include English-speaking minorities in Quebec, and they have their place. Thank you very much for coming here today.

I would like you to perhaps—and we're very short on time—explain to us, in the situation of the English-speaking minority in Quebec and the French-speaking minorities across Canada, what are one or two of the fundamental differences between the two? And there's the fact that you're working together, I know, in some instances, and you might perhaps mention that as well.

The third thing that I would really appreciate your mentioning is, how does the opening of French-language schools in Manitoba, in the Northwest Territories, or whatever, these improvements for the French-speaking minorities across Canada, link into whatever the situation is of English-speaking minorities in Quebec? How are they linked, and what impact does it have on your minority, and what consequences?

Thank you.

Mrs. Sylvia Martin-Laforge: Thank you for that question, because I think you've partially answered the first question by your second question. In fact, there are more similarities between the official language minority communities—the French-speaking outside and in the rest of Canada, and English-speaking in Quebec—than there are differences. Because we are a national minority, we have to be considered as a national minority.

In Quebec there are about one million anglophones, English-speaking Canadians living in Quebec, and by those numbers we compare with francophones outside of Quebec. There are the similarities, and the similarities are important because we need to be treated as a national minority. We are in one province, it's true, but the connections between the minority in Quebec and the minority outside Quebec, the French-speaking, is evident.

When we look at what is happening with the schools, school closures, access to education, access to health care, and that we have an aging community, that we have exodus from rural to the cities, we have a number of dossiers that link us. And for English-speaking minorities in Quebec, we've had a different evolution over the last 30 years, so there is a mythology that there is a lot of difference. There's a mythology that all English-speaking Quebecers live in Westmount, go to Brome Lake for the weekend, and there's money everywhere. Well, no.

I would ask you to look especially recently. The Quebec Community Groups Network has put together with a Montreal group, what we call the Greater Montreal Community Development Initiative. On our website, on the QCGN website, you can see demographics, about 700,000 people living in Montreal, where there are demographic issues around employability, poverty, lack of access, all of these things, and what it does to the determinants of health. The links and the similarities are important, but the differences I think are more minimal than one would think.

● (0950)

[Translation]

The Chair: Thank you, Ms. Folco and Ms. Martin-Laforge.

We will now go to Richard Nadeau from the Bloc Québécois.

Mr. Richard Nadeau (Gatineau, BQ): Thank you, Mr. Chairman.

Welcome, ladies and gentlemen.

Mr. Schafer, I have a few questions for you to help me clarify certain things. Did you do any post-secondary studies in Canada?

[English]

Mr. Christopher Schafer: Yes.

[Translation]

Mr. Richard Nadeau: So you studied law here, in Canada. If I give historical examples of battles in which government assistance would have been appreciated, such as the Georges Forest case, in which a favourable decision was handed down in 1979, causing the repeal of a Manitoba statute passed in 1890, would that mean anything to you?

[English]

Mr. Christopher Schafer: I don't believe it does.

[Translation]

Mr. Richard Nadeau: Right. If I mention Ontario's Instruction No. 17, passed in 1912, that abolished French schools, would that mean anything to you?

[English]

Mr. Christopher Schafer: It does ring a bell.

[Translation]

Mr. Richard Nadeau: It rings a bell. Do you know that, in Ontario, we were unable to obtain full governance of our schools until 1990?

[English]

Mr. Christopher Schafer: Okay, I'll take your word for it.

[Translation]

Mr. Richard Nadeau: You're learning something you didn't know, and that's very good. Did you know that, in 1931, Premier Anderson's Conservative government in Saskatchewan abolished the teaching of grade 1 in French?

[English]

Mr. Christopher Schafer: No.

[Translation]

Mr. Richard Nadeau: French schools in Saskatchewan have been recognized as legal and equal only since 1995, thanks to courts of justice where parents were able to take on the government on an equal footing to restore a constitutional right. It took 64 years. Is that new to you?

[English]

Mr. Christopher Schafer: Again, I'll take your word for it.

[Translation]

Mr. Richard Nadeau: Thank you.

[English]

Mr. Christopher Schafer: Can I have—

[Translation]

Mr. Richard Nadeau: I am asking the questions here. Thank you.

Ms. Routhier-Boudreau, if possible, I would like you to explain—I know that there is a case before the courts at present—how you view the government's abandonment of the Court Challenges Program, a program that is so important in enabling minority-community citizens in Canada to exercise their rights.

● (0955)

Ms. Lise Routhier-Boudreau: Thank you.

The Chair: Go ahead, please.

Ms. Lise Routhier-Boudreau: Thank you.

The term "abandonment" is exactly the right term. Canada's linguistic duality is a source of immeasurable richness for the country, and to enjoy it to the full, a minority needs access to the same means of recourse that the majority has. The support of the Court Challenges Program has been invaluable in enabling minorities to exercise their rights. With all the progress made in recent years, we have seen how significant the CCP contribution is. Now, since the government cannot recognize in any tangible way the need to provide the capacity to ensure legislation is respected—passing legislation is not enough, we have to ensure it is respected—and is abolishing the Court Challenges Program, we will find minority communities have had their ability significantly undermined when it comes to ensuring such respect in the clarification and interpretation of legislation.

Mr. Richard Nadeau: Good afternoon, Ms. Foulém. I have a question that may elucidate some issues for our friends the Conservative Party, as well as for Mr. Schafer, who is here today. How do Acadians, and people from the Société des Acadiens et Acadiennes du Nouveau-Brunswick, perceive the inequality brought about by the fact that, when they take their cases to court, the federal government appears with a bevy of lawyers to defeat, or at least try to defeat, arguments made by parents and volunteers who feel their rights are being prejudiced by the government's failure to comply with the Canadian Constitution? How do you suggest we reduce that gap, to ensure there is equality between the government—be it the provincial or the federal government—and volunteer organizations, or parents' organizations, who are fighting for the rights they believe they are entitled to?

Mrs. Ghislaine Foulém: As I said earlier, the process is somewhat anti-democratic, because when governments appear in court against us, to counter our challenge, our belief that they are not complying with their own legislation, they have vast resources. It's like David against Goliath. We have no resources. So if we don't have support, like the support we had with the Court Challenges Program, to do our research, and prepare arguments as one has to do when presenting them before the court, the whole process becomes very unfair and anti-democratic. Why can the federal machinery of government use taxpayers' money in fighting its own citizens, when we, who are on the other side, have no access to the same means? That is unfair. We need justice and fairness so that we have the instruments we need to defend our rights and ensure that, in practice, we can actually exercise them.

Mr. Richard Nadeau: All right, thank you.

Do I have any time left, Mr. Chairman?

The Chair: You have ten seconds.

Mr. Richard Nadeau: Thank you.

Ms. Martin-Laforge, do you believe that the federal government is complying with the Official Languages Act in abolishing the Court Challenges Program? I am thinking particularly about part VII of the Official Languages Act, which was amended during the last Parliament.

The Chair: I would ask you to give a very short answer, Ms. Martin-Laforge. Perhaps you could answer with a yes or a no. You could perhaps continue later on.

Mrs. Sylvia Martin-Laforge: Absolutely not, given its commitment.

The Chair: We will continue with Mr. Godin.

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chairman. I must ask a question of Ms. Foulem from Acadia.

Good morning, Ms. Foulem.

• (1000)

Mrs. Ghislaine Foulem: Good morning, Mr. Godin.

Mr. Yvon Godin: The government no longer wants to invest in the Court Challenges Program. That is what they have decided to do until we are able to convince them that they are on the wrong track and that they must reinstate the Court Challenges Program in order to help communities, minorities and people who do not have the money to challenge the interpretation of the law or the manner in which the law is enforced on the front lines. If we were to ask the government if the RCMP in New Brunswick had to offer services in both official languages, I am certain that they would say yes. On the other hand, ensuring compliance is another story and that is what is being debated in court at this time. Without the CCP, the SAANB would be obliged to represent citizens in court. That is part of its mandate. If they use money that does not come from the Court Challenges Program, that means that there will be a shortfall in other community assistance sectors. In one way or another, someone will come up short.

Mrs. Ghislaine Foulem: Mr. Godin, I have before me a list of some 15 cases that we have studied. We have had the benefit of this assistance of the Court Challenges Program in some 15 cases since 1998, and had it not been for this program, we would not have been able to pay the costs. Even the lawyers who work with us often do so with minimal compensation. Lawyers work with us to prepare our cases, but we cannot ask them to work for free, that is unthinkable. Without the program, it really will be impossible to bring cases before the courts. We simply would not have the means to do so.

Mr. Yvon Godin: The government was saying in the House of Commons that the money for the Court Challenges Program served only to enrich friends of the Liberals. That is not what happened in New Brunswick or in the Maritimes.

Mrs. Ghislaine Foulem: I can state unequivocally that the lawyers who work with us do so for a very low fee. They even give their time free time to the SAANB. Imagine what it costs to take a case to the Supreme Court of Canada. As for the government, I am

sure they do not pay their lawyers \$35 an hour. Let us put things in perspective. Our lawyers are receiving a minimal amount. We cannot ask them to do the expert work and research that this requires, completely as volunteers. I can tell you that they are not asking us for their usual rate.

[English]

Mr. Yvon Godin: Mr. Schafer, I'd like to ask you a question, especially since you say that the taxpayers' money should not be used to go to court and challenge the law of this land or the Constitution, that it should not be the taxpayers' money but that it should be voluntary people giving money.

Would you agree with me, then, that when a case goes to court, brought by a citizen, the government should not challenge the court decision and go to the Supreme Court, using the taxpayers' money to beat the poor citizen who had, I will say, the guts to take the government to court to challenge the law? Would you say the government should not use the taxpayers' money to challenge a decision in the Supreme Court, where the citizen, for sure, could not? Would you agree with me?

Mr. Christopher Schafer: The ironic part of the court challenges program is that it's government funding to challenge itself. On principle alone, I cannot support the court challenges program. Regardless of whether the causes are worthy, and there have been times, I know—for example, I supported, personally not financially, Dr. Chaouli in his challenge to health care in Canada—but the fact is that he took it upon himself to challenge the law. The government, of course, was backing with taxpayers' dollars to defend against his case, and unfortunately, in that example we were outnumbered by government lawyers.

Mr. Yvon Godin: Wouldn't you say, though, that the doctor from Quebec who challenged the court, at the end of the day, because of privatization of health care, will make lots of money out of it, compared to Madame Paulin, who got caught by RCMP in New Brunswick, where they didn't want to talk to her or they could not talk to her in French and she didn't understand what the cop was telling her on the side of the road? Isn't there a difference between Madame Paulin and the doctor, who has enough money and will make all kinds of money in privatization of health care that will destroy our health care system in our country?

Mr. Christopher Schafer: In principle, no, I would say it's not the same. If you believe in principle that government shouldn't be funding various groups—I mean, you could argue that the court challenges program should be equally funded. I don't think in theory that would work. I think the court challenges program, from the way it has worked in the past, historically demonstrates that fairness is not part of that program.

Therefore, I support the court challenges program being abolished and letting Canadians, as individuals, support causes they believe in. If linguistic minorities truly, all of them as a whole, support causes that these witnesses here today are advocating for, they'll gladly fund these programs.

• (1005)

Mr. Yvon Godin: You probably will have a chance to be a candidate for the Conservative Party in the next election, because I'm sure Stephen Harper would love you.

My question is to Madame Martin-Laforge. When we look at the court challenges program and the anglophones in Quebec, would you agree with me that when we have a law coming up, it's always a challenge about whether they are interpreting it the right way and whether they are fair to the citizens? That's what it's all about, to do what needs to be done.

For example, Bill S-3 said that every institution has to give services in both languages, the same problem as happens in Montreal, Quebec, or Trois Rivières. I mean, the citizens have the right, not only provincially but federally, to have their services in both languages, because they are what you call in French

[Translation]

the founders of this country

[English]

and there was an accord made, probably in 1867, that we're supposed to be equal. And that's what it's all about.

Mrs. Sylvia Martin-Laforge: Certainly English-speaking Quebecers have the right to have access to the same services as all Canadians. I think that's what the court challenges program allows us to think about when test cases are brought in front of it. Not all cases will be looked at in the same way under the court challenges program. There are panels and there are ways of accepting certain cases rather than other cases.

These are test cases that have to be seen for what they are; they are pushing the envelope on laws and regulations and rules that impinge on individuals' equality rights. Whether it be official language minority communities or other equity groups, it's absolutely important that all Canadians have access to the same services.

So yes, of course it's a necessary part.

The Chair: Thank you, Madame Martin-Laforge.

Now we'll end up this first round with Madame Sylvie Boucher.

[Translation]

Mrs. Sylvie Boucher (Beauport—Limoulu, CPC): I would like to say hello to everyone. Thank you for being here with us this morning; it is greatly appreciated. I am going to ask my question of the FCFA. You can tell me if my memory serves me well. I am young, but my memory plays tricks on me at times. Your organization represents about ten national organizations working on the development of specific sectors, like health, immigration, education, etc. Is that right?

Ms. Lise Routhier-Boudreau: We have nine national organizations and one representative organization in all the provinces and territories.

Mrs. Sylvie Boucher: Does that exclude Quebec?

Ms. Lise Routhier-Boudreau: Yes. Quebec is not at the table.

Mrs. Sylvie Boucher: All right. I wanted to be sure.

You have a horizontal kind of mandate, that is to say that to respect your member organizations, you are an umbrella group of the other associations that are part of the FCFA.

Ms. Lise Routhier-Boudreau: It is a federation, yes.

Mrs. Sylvie Boucher: Could you tell us what means, activities and tools the FCFA has at its disposal in order to make its defence of rights a reality? On your website, it states that the FCFA aims to "... defend the rights of francophone Canadians living in a minority situation;". We can also read that the FCFA wishes to ensure "that government services are offered to francophones where they live."

I would like you to explain to us what means, activities and tools the FCFA has in order to make this advocating service real. I would also like you to tell us whether or not this service has undergone any changes over the last year, in order to see whether there has been any evolution or whether there have been any changes at all.

● (1010)

Ms. Lise Routhier-Boudreau: The federation's work consists in supporting the provincial, territorial and national organizations. These organizations function independently. The FCFA supports their work in the areas of communications, preparing briefs and doing research on their various files.

The federation, of course, meets with various governmental stakeholders on behalf of its members, on the one hand to inform them of certain concerns, if that is the case, or to support government authorities in the work they are doing for the development and expansion of francophone and Acadian communities.

As far as the resources are concerned, I do not have the details of the particular programs that are currently supported by the governments.

Mrs. Sylvie Boucher: Has the kind of service that you offer been modified or changed over the last year? Have there been any changes or have you always worked in the same way? Has there been any development in the changes that have been made over the years?

Mr. Serge Quinty (Director of Communications, Fédération des communautés francophones et acadienne du Canada): In order to properly answer your question, I would like to understand it. When you talk about means and tools, are you talking about material or financial resources?

Mrs. Sylvie Boucher: Both at the same time. What do you base your community assistance on? Given that you are an umbrella group for nine national organizations, you must have means and tools to help these people. That is what I want to know.

Mr. Serge Quinty: Given that there are now more and more government mechanisms that are shared between a certain number of departments, and that we are working in collaboration with government authorities in order to understand the needs of communities well, and so forth, the role of the FCFA has grown over the last two years.

As regards tools and material resources, the situation has remained constant over the years. We have several tools to help us get to know and rally communities. Ms. Routhier-Boudreau can speak to you in detail about the francophone and Acadian community summit, which really was, I believe, a great exercise in community consultation. We have several channels, of course, through which to consult the communities.

Mrs. Sylvie Boucher: I come back to my question. Have there been changes, a certain evolution since you have been there? Have there been any changes over the years which have resulted in the situation improving or—?

Mr. Serge Quinty: Perhaps...

Mrs. Sylvie Boucher: Having worked in the community sector, I know that an organization seeks to go further, and make the changes necessary to meet the changing needs of the community it serves. In the last year, have there been any changes made to the services you provide?

Mr. Serge Quinty: Yes, absolutely. Over the years, we have certainly adapted to service structures, to methods of consulting our members and to the communities. We adapt, and we make changes as the context evolves.

The Chair: Very well. We have just completed our first round. We will begin our second round of five minutes for questions, answers and comments. We will begin with the official opposition.

Mr. Rodriguez, you have the floor.

Mr. Pablo Rodriguez (Honoré-Mercier, Lib.): Thank you very much, Mr. Chair.

Good morning everyone. Thank you for being here today.

In 2005, we discussed Bill S-3 at length. We had long debates. At the time, I was the Chair of the Standing Committee on Official Languages. Ultimately, Bill S-3 was passed after having gone through all of the steps after several attempts. In my view, that piece of legislation is an important tool for protecting and promoting minority rights.

However, I feel that abolishing the Court Challenges Program, which means communities cannot defend their rights, goes against the philosophy of S-3, a bill that sought to do more for the communities.

Generally speaking, the government's action is incomprehensible, and it is all the more baffling because it runs counter to the development and defence of community rights. I don't know if you share this point of view.

Ms. Routhier-Boudreau, do you wish to reply?

• (1015)

Ms. Lise Routhier-Boudreau: Since 2005, it is been very difficult to make out what positive measures have been implemented following the amendment to the act. It is clear that the abolition of the Court Challenges Program leads us directly to the issue of true equality, which is been far from being attained at the moment. In my opinion, abolishing this program directly contradicts the new obligation to take positive measures.

Mr. Pablo Rodriguez: I agree with you. I have a question for the two representatives of the minority community. A yes or no will suffice. Do you think the abolition of the Court Challenges Program has violated on your constitutional rights?

Ms. Lise Routhier-Boudreau: Yes.

Mr. Pablo Rodriguez: Ms. Martin-Laforge, do you wish to answer?

Mrs. Sylvia Martin-Laforge: It is certain that anglophones living in Quebec need this program to ensure access to representation.

Mr. Pablo Rodriguez: This is a violation of the basic constitutional rights of francophone communities outside Quebec and anglophone communities in Quebec.

Mrs. Sylvia Martin-Laforge: Absolutely. Abolishing this program does not affect minorities exclusively: it also affects other groups that fight for equality rights.

Mr. Pablo Rodriguez: I agree with you. The program should be reinstated in its entirety, and include not only the official languages components, but also the component that deals with all minorities.

Do you share this view, Ms. Martin-Laforge?

Mrs. Sylvia Martin-Laforge: Absolutely.

Mr. Pablo Rodriguez: And you, Ms. Routhier-Boudreau?

Ms. Lise Routhier-Boudreau: We believe that the program in its entirety should be reinstated.

Mr. Pablo Rodriguez: Thank you.

Mr. Schafer, Mr. Godin asked you an excellent question. I don't think it was given answered. He talked about groups or individuals who go to courts thanks to government funding. You said that it is unacceptable to use taxpayers' money to fund a case. He asked whether, if these groups won, it would be more acceptable for the government to appeal using taxpayers' money in order to overturn the original ruling. Do you find this acceptable, or should this not be done either?

[English]

Mr. Christopher Schafer: Let me answer that by saying that, for example, I sympathize with the anglophone urge for justice in Quebec. However, to the question you're asking regarding the government appealing a decision and that it's detrimental to justice, for example, for defendants or proponents who can't afford to continue litigation, I would answer that it's unfortunate, because yes, in cases that we're currently litigating in the courts, that happens to us. So it's unfortunate, yes, because we don't have unlimited funds. We don't have taxpayers to go back to and ask for more money. It also happens in other equality cases where I may disagree; a certain group might be pushing litigation, and unfortunately, the government appeals even though they win the decision.

It's unfortunate, but it happens across the board. That's what makes it fair.

Mr. Pablo Rodriguez: The government is still spending taxpayers' money. In one case, you say it shouldn't happen. I want to know whether the government should use that same money, the money from the people, from Canadians, to appeal. Should they spend that money?

Mr. Christopher Schafer: I would say yes, because it's the nature of the system. What makes the court challenges program unsuccessful is that in theory it's a good idea if you can fund groups across an ideological spectrum and fund them equally. In theory it works; however, human nature being what it is, and politics being what it is, the unfortunate reality is that you can't create a court challenges program and fund it equitably.

•(1020)

[Translation]

The Chair: Very well.

Thank you, Mr. Rodriguez.

We will now move on to the other witness. I would like to remind everyone that we always treat our witnesses with courtesy and fairness. I would also like to remind you of what is at stake—I will not say that the Sword of Damocles is hanging over our heads—with regard to the action undertaken by the FCFA, and to keep that in mind when you are asking your questions.

We will now move on to the government side.

Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chairman.

[English]

I have a question for Mr. Schafer, but before I ask the question, I just want to give a bit of background.

This program originated in the 1970s to establish a broad foundation of case law in an area that was undefined at that point because of a lot of changes that had taken place in the 1960s, 1970s, and subsequent to that in the 1980s with the Official Languages Act, with the *Charte de la langue française* in Quebec, with the advent of the Canadian Charter of Rights and Freedoms. These were significant pieces of legislation and constitutional changes that really caused a lot of confusion and questions as to the exact nature of the rights that people had with regards to linguistic rights, and also with regard to minority rights. So the court challenges program was created after that.

There are many who say that after 30 years of jurisprudence and court cases, we do have that broad foundation in law. So my first question is, do you concur with that? Do you think we do have that broad jurisprudence to be able to define what our rights are? I don't mean all of them, as obviously there are always new cases and new areas of the law that are being defined, but do you believe that after three decades we do have that broad basis in case law, both with respect to minority rights and with respect to linguistic minority rights?

Regarding my second question, the official languages commissioner commented in his most recent report that in his view the cancellation of this program ran contrary to part VII of the Official Languages Act. So my question is, do you share that view at all? Do you have any views on that?

Those are my two questions.

Mr. Christopher Schafer: To answer your first question, I think the law, if I can use an analogy, is like a living tree; it constantly is evolving and developing. So yes, with the charter, for example, I believe it celebrated its 25th anniversary. I'm generally familiar with the battle and struggle for English-language rights and French-language rights in Canada, and that develops over time. I don't think the law or the charter or any section of the charter is static, for example, so section 15 may be interpreted in one way in 1982, or 1985, and down the road may be interpreted in another fashion,

depending on who may be interpreting the law at that point. So I would say yes, we have a body of jurisprudence on the charter, for example, in different sections; however, it's continually under review and development and will evolve, I'm sure, for years to come.

To answer your second question, I haven't done the legal analysis that's probably necessary to answer that question; however, my knee-jerk reaction would be that there's a principle that past governments can't bind future governments, so that may be applicable here. However, with that said, I would answer the question by saying, as I've stated before, that I don't support the court challenges program. I support the elimination of that program currently.

[Translation]

Hon. Michael Chong: Thank you. My question is for the Quebec Community Groups Network, the QCGN. Last week, representatives from the CCP mentioned that the program was created to fund court cases to promote the equality rights and language rights guaranteed under the Canadian Constitution or the Charter.

In the documents we received, it says the following:

A case is a test case only if it deals with a problem or raises an argument that has not already been decided on by the courts and has the potential to assist official language minorities in Canada to protect their language rights.

Under our agreement with the federal government, the Program is only allowed to fund a case if it advances official language rights under the Constitution or the Charter and is an important test case.

All of the Program's funding presently comes from the federal government. The government agreed to provide money to the Program only after making a list of things the Program is not allowed to do with it. Under the agreement with the government, we cannot fund any of the following:

challenges to provincial law, policy or practice;

any case that covers an issue already funded by the Program or that is already before the courts;

complaints under the Official Languages Act;

Of what significance was the CCP to the QCGN?

•(1025)

The Chair: Unfortunately, we have run out of time. You may answer during the next round of questioning.

We will now move on to Mr. Ouellet.

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Thank you, Mr. Chairman.

I would like to come back to Ms. Martin-Laforge on the issue of the basic rights of minorities.

In my riding of Brome—Missisquoi, anglophones represent about 18% of the population. I feel I must defend this minority group which is different from the rest of Quebec, as I would defend the French language elsewhere. Generally speaking, Quebec anglophones are included in the groups mentioned by Mr. Schafer. They have money. But the anglophones in my riding do not. We both belong to the odd fellows, and you know those people. It's the same thing in the Pontiac where anglophones do not have a lot of money.

Why do anglophone groups in Quebec, who truly need to take their case to court, for instance to promote literacy, need the Court Challenges Program? When the current government cut literacy programs, it affected my riding the most, because the anglophones in that riding have a high rate of illiteracy and are very poor. Those who had more money left. Only the poor stayed behind, and these are people I like, even love. I would like us to protect these people and I would like them to defend their rights.

Can you please tell us about the rights of these minorities? There are two official languages.

Mrs. Sylvia Martin-Laforge: I would like to say from the outset that I don't quite agree with you about the number of wealthy people.

[English]

English-speaking anglophones in Quebec.

With the Townshippers in Pontiac, the Coasters on the north shore, *dans les Îles de la Madeleine*, there are many regional anglophone associations that have exactly the same problems as francophones outside Quebec in terms of exodus of youth, rural issues. It's quite amazing.

The bigger problem for these folks around *alphabétisation* or around access to justice is that they don't have the wherewithal financially, and probably there aren't the sophisticated tools around them, to bring these cases to the fore.

I think it's not just the Townshippers or the Coasters or the English-speaking *Madelinots*, there are a growing number of English-speaking Quebecers living in Montreal. They do not have the traditional anglophone roots from Westmount or the town of Mount Royal. They are really very much in need of this program, and they are in need of attention by this committee and other committees like this.

Anglophones in Quebec need exactly the same attention and rights and access to this kind of program and other issues.

[Translation]

Mr. Christian Ouellet: Could you mention a few cases to help the committee understand how the Court Challenges Program could help Quebec's anglophones?

Mrs. Sylvia Martin-Laforge: School closures are a problem. In fact, you probably do not hear about this problem outside Quebec. There are no stories of English schools closing in Toronto, Sudbury, British Columbia or New Brunswick. It is important to know that children must spend hours on a bus in the morning to get to school. We are not recognized as minority nationally, and that is very important.

I believe that the schools could use this program.

•(1030)

Mr. Christian Ouellet: Do you believe that it is important in the workplace for anglophones in minority communities to be able to read, write and understand what they are doing? Could this program not help them challenge the fact that they have lost their rights?

Mrs. Sylvia Martin-Laforge: In just a few days we will be publishing a report on English speakers in Montreal. The consultations took months, and they involved groups, individuals

and experts. The priority for everyone was employability: the ability to work, not in English, but just to work, given their bilingualism.

The Chair: Thank you.

We will now go to Mr. Godin.

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

Mr. Schafer, you are one of the directors of the Canadian Constitution Foundation.

[English]

Who is the president and where is he from?

Mr. Christopher Schafer: The executive director is Mr. John Carpay, and he currently resides in Alberta.

Mr. Yvon Godin: He's in Alberta. Okay.

Who invited you here?

Mr. Christopher Schafer: Mr. Carpay asked that I attend on his behalf because he had other business with the Nisga'a mediation.

Mr. Yvon Godin: No, somebody invited the organization. Who invited you?

Mr. Christopher Schafer: I understand the committee invited Mr. Carpay, who then invited me to attend on his behalf.

Mr. Yvon Godin: For the record, it was not me. It must have been the government that invited you here.

Did somebody from the government meet with you before we had this meeting?

Mr. Christopher Schafer: No.

Mr. Yvon Godin: Nobody talked to you on the phone?

Mr. Christopher Schafer: No.

Mr. Yvon Godin: Okay.

Madame Martin-Laforge, you were talking about consultation, and you were not consulted. Your organization was not consulted, is that right?

Mrs. Sylvia Martin-Laforge: That's right.

Mr. Yvon Godin: Are you not worried that this government is saying Quebec will look after the francophones and Canada will look after the anglophones?

Mrs. Sylvia Martin-Laforge: We are incredibly worried.

I only want to say that the Quebec Community Groups Network has just gone through a re-mobilization, if you will. We have moved our offices from Quebec City to Montreal. We have increased our staff. The QCGN is worried and has put a lot of resources into re-mobilization to make sure the government hears the point of view of the English-speaking community in Quebec. It's why I'm so happy to be here today.

Through the work we have been doing in Montreal, in the greater Montreal region, the community has also seen a re-mobilization of the community in Montreal. There are 700,000 people in the greater Montreal area. On consultation, the government has an obligation to consult a very important minority in this country, which is the English-speaking community of Montreal.

[*Translation*]

Mr. Yvon Godin: Ms. Foulem, we even spoke on the weekend with Jean-Maurice Simard, who was a Conservative, but a Progressive Conservative. I don't want to attack the Conservatives, but I know that the cuts they have made and, in particular, the fear they have created have hurt all regions of Canada.

In New Brunswick, even though these rights are entrenched in the Constitution, there are still problems. The situation is still fragile, and people still need to go to court. The food inspectors in Shippagan had to go to court in order to keep their services in that town, despite the fact that New Brunswick is the only officially bilingual province in Canada.

Is the situation still fragile even in New Brunswick?

• (1035)

Mrs. Ghislaine Foulem: Absolutely. The fact that the Court Challenges Program had to be used for some 15 issues makes that clear. There have been some gains made, but there is still much left to do. The health care sector has been mentioned in particular. The challenges are not all behind us. The dual-language school system is not enshrined anywhere in legislation. It is something that has been in place since the 1970s, but a government could decide at some point that the dual system in public schools does not exist.

We still need to be vigilant and make sure that services are offered that affect people directly, that people have the right to obtain these services in French, since that right cannot be taken for granted anywhere. We need to remain very vigilant. People often have the false assurance that all the battles have been won, but that is not true. If it were, organizations like ours would no longer have any reason to exist.

Mr. Yvon Godin: Thank you.

The Chair: Mr. Godin, you used up your allotted time exactly.

That ends our second round. We will now go to our third round of questioning, which will be a five-minute round.

Mr. D'Amours, you may begin.

Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.): Thank you, Mr. Chairman.

I would like to thank all of you for being here today, and I want to congratulate Ms. Foulem on her recent appointment.

I would like to ask Mr. Schafer a few questions. Mr. Godin mentioned that you were not invited by the NDP. I do not believe that the invitation came from the Bloc Québécois either.

Mrs. Sylvie Boucher: Point of order, Mr. Chairman. Out of respect for our guests, I would like this kind of petty politicking to be avoided. Every witness has the right to speak.

The Chair: That is not necessarily a point of order, Ms. Boucher.

Mr. Jean-Claude D'Amours: Mr. Chairman, I have not yet spoken, and I would like extra time added so that I can have my five minutes.

I do not believe that it was the Bloc Québécois that invited the Canadian Constitution Foundation, and it was certainly not the Liberal Party. So that leaves the Conservative Party, Mr. Chairman.

Mr. Schafer, I would like to ask you a few questions. To begin with, your notes indicate that your foundation is non-partisan. Is that right?

[*English*]

Mr. Christopher Schafer: That's correct.

[*Translation*]

Mr. Jean-Claude D'Amours: Mr. Schafer, can you confirm that the founding president of the Canadian Constitution Foundation is John Weston?

[*English*]

Mr. Christopher Schafer: He was involved in the birth, the early period of our foundation.

[*Translation*]

Mr. Jean-Claude D'Amours: So he was part of the founding group. Is it also true that Mr. Weston was a Conservative candidate in 2005 in the riding of West Vancouver and that he was not elected in the January 2006 election?

[*English*]

Mr. Christopher Schafer: I don't know.

[*Translation*]

Mr. Jean-Claude D'Amours: It is a fact, but it can be checked anyway.

Mr. Schafer, can you confirm that the current Executive Director of the foundation, John Carpay, was a Reform Party candidate in 1993?

The Chair: Excuse me for interrupting you, Mr. D'Amours. I have stopped the timer. I need to check something. I have been told that the vote is at 11 o'clock. The bells will start at 10:45 and the vote will be at 11 o'clock. I want to clarify that because I want to adjust the time for answers and for each member's intervention to make sure that we have time for a complete round.

Our apologies to the witnesses. This is a house-keeping matter.

Can someone confirm what time the vote will be? Is it at 11 o'clock? So the bells will start ringing in five minutes. In order for all witnesses to have a turn, I will put—

Mr. Yvon Godin: It is a 30-minute bell. So it will be 30 minutes after 10:45, which means 11:15, and the Chamber is close by. So we have enough time.

• (1040)

The Chair: Thank you, Mr. Godin.

I will ask the clerk to check so that I am sure that we have enough time. I want to be fair to all parties.

Mr. Jean-Claude D'Amours: Mr. Chairman, on the topic of being fair and respectful to all parties, I would like to be able to finish my five minutes. That is the least we could expect. Then you can give us all answers you want.

The Chair: I will let you continue, Mr. D'Amours.

Mr. Jean-Claude D'Amours: Thank you, Mr. Chairman. I hope that my time will be adjusted accordingly, for a second time.

Coming back to my question, Mr. Schafer, can you confirm that the current Executive Director of the Canadian Constitution Foundation, John Carpay, was a Reform Party candidate in 1993?

Mr. Luc Harvey (Louis-Hébert, CPC): Point of order, Mr. Chairman.

I have no idea what the answer is, but I would really like us to concentrate on the Court Challenges Program. We are way off track.

Mr. Yvon Godin: Point of order, Mr. Chairman.

The Chair: Yes.

Mr. Yvon Godin: I do not see how the rules have been violated. This is his allotted time. If he wants to ask a witness a question, that is his business. We can ask any questions we want.

The Chair: As to the nature of the debate, the questions must be put to the witness, and the witness can decide to answer or not to answer.

Mr. Jean-Claude D'Amours: I hope, Mr. Chairman, that my time will be adjusted for a third time. If I need to say it four or five times, I will do so.

Mr. Schafer, could you confirm to us that what I said earlier, which is that John Carpay the CCF's Executive Director since 2005, was a Reform Party candidate in 1993?

[English]

Mr. Christopher Schafer: To answer that question, personally I don't think it's relevant. I am sure that groups that have received the court challenges program funding in the past may have been candidates for different parties in the past. I do believe, to answer your question, that Mr. Carpay was a Reform Party candidate at some point.

[Translation]

Mr. Jean-Claude D'Amours: I still have time, Mr. Chairman.

The Chair: Mr. D'amours, I am told that the vote is at 11 o'clock, so your—

Mr. Jean-Claude D'Amours: Mr. Chairman, whether it is at 11 o'clock or 11:15, I still have at least two minutes, do I not? I can at least go to 10:45.

The Chair: Mr. D'Amours, I would not want to give you more time than the others.

Mr. Jean-Claude D'Amours: It cannot be more time, since I have not used up my five minutes.

The Chair: That is why I wanted to tell you that I might have to shorten your time. We may have to cut back to four minutes for everyone, so that everyone can have a chance to speak. You have one minute left. Is that all right?

Mr. Jean-Claude D'Amours: Thank you, Mr. Chairman. I have one minute left.

Mr. Schafer, I have one last question. Is it possible that some members of the CCF's advisory committee might also be former members of the Reform Party?

[English]

Mr. Christopher Schafer: It's possible I myself am a former member of the Reform Party, but again, I stress that I don't think

that's relevant, as I'm sure people who have received court challenges program funding in the past may have, or still do, belong to different political parties across the ideological spectrum.

[Translation]

Mr. Jean-Claude D'Amours: Mr. Schafer, out of respect for the groups who are before us, whether the anglophone groups from Quebec or those from elsewhere in the country, we need to clarify something. You say that your organization is non-partisan, and you say that you are opposed to the Court Challenges Program. It just so happens that the executive directors are members of the Reform Party or the Conservative Party.

The Chair: Mr. D'Amours, that will be the end of your time. You had a little over four minutes, and the following turns will be shorter.

Yes, Mr. Godin?

Mr. Yvon Godin: I just checked with our desk: the vote will be at 11:15 or 11:20, so in about 30 minutes from now. So we do not need to shorten the question period.

The Chair: I apologize to members and the witnesses. In that case... One moment, Mr. Chong has a point of order.

[English]

Hon. Michael Chong: Mr. Chair, we have to be very careful when we have witnesses in front of this committee. I was not at all, until today, familiar with the Canadian Constitution Foundation. I was never a member of the Reform Party. It is a federally registered charity, and under Canadian law it must be non-partisan. I think we should be very careful about questioning the non-partisan nature of organizations that appear in front of committee that are federally registered charities.

These witnesses appear in front of us, and I've never heard of this organization before. I don't think there's anything wrong in asking questions about where the funding comes from, or who the members of the organization are, but I think we have to be very careful about implying that it may not be non-partisan in nature.

So I would urge caution to members of this committee with respect to that line of questioning.

• (1045)

[Translation]

The Chair: Very well.

Mr. Nadeau.

Mr. Richard Nadeau: Mr. Chairman, Mr. D'Amours still has one minute left. I will then speak for five minutes.

The Chair: The clerk has just informed me that the bell will start to ring at 10:45 for a period of 30 minutes. The timer indicates that Mr. D'Amours has already had 4 minutes and 30 seconds, so he has 30 seconds left.

Mr. Jean-Claude D'Amours: Mr. Chairman, I hope that no one tries to sidetrack my question so that people forget the point that I am making.

I want to come back to my question, Mr. Schafer. I apologize to the other witnesses, but this is an important clarification that needs to be made.

You say that you are non-partisan. I will not go into details with you on comments that have been made by some of these people, since the members opposite, on the government side, might change their points of order. People talk about non-partisanship, but this is so partisan that there are many people who have run for office, for example, for the Conservatives in 2006. We know that the Court Challenges Program was eliminated after that. There was also the Reform Party in 1993, and people like Ezra Levant and company.

Is this a Conservative group or a genuine advocacy group?

The Chair: Thank you, Mr. D'Amours.

We will now go to the second speaker in our third round.

Mr. Nadeau, you have five minutes.

Mr. Richard Nadeau: Mr. Schafer, could you please answer the question asked by my colleague, Mr. D'Amours.

[*English*]

Mr. Christopher Schafer: I don't believe we're a partisan or biased organization. We represent the interests of all Canadians. Our group is a charitable organization; therefore, we have restrictions on our activities in terms of maintaining our charitable status. If you look at other groups that received court challenges program funding in the past, such as LEAF, Women's Legal Education and Action Fund, one could make a plausible argument that they too are partisan, as the member would state.

[*Translation*]

Mr. Richard Nadeau: Thank you very much for explaining your partisan politics.

I would like to put some questions to the Fédération des communautés francophones et acadienne du Canada.

Some questions were put to you earlier. We heard that you represent nine national organizations. If I understand correctly, you also represent nine provincial organizations and three territorial organizations. I attended the summit two weeks ago, and it was a very rewarding experience. All in all, 33 Canadian francophone minority organizations were represented.

Because you are an umbrella group, I would like to know whether you have heard how the organizations feel about the fact that the current Conservative government has abolished the program. What sort of things do they say?

Mr. Luc Harvey: Mr. Chairman, I have a point of order.

The Chair: Mr. Harvey.

Mr. Luc Harvey: An entity that cannot comment on the Court Challenges Program is being asked to make comments about this situation. We tried to establish a principle which was already complicated from the beginning. We should be careful not to lead Ms. Boudreau down the wrong path.

The Chair: Thank you, Mr. Harvey, for raising a point of order.

I think this is a reminder and I would draw it to the attention of the members and the witness. We should limit the discussion to the program itself. Thank you.

Mr. Nadeau.

Ms. Lise Routhier-Boudreau: Thank you.

At the summit, some of the 750 participants there were people who did not belong to organizations. Quite a few people were participating on an individual basis. The progress made by the francophone world in recent years have helped francophone communities to flourish and develop. Accomplishments made every field of endeavour were discussed. Of course, the headway made due to the Court Challenges Program was strongly emphasized. It helped us to set benchmarks and to continue making substantial progress as a minority.

As far as I am concerned, I want to add that the francophonie does not want to be perceived in the least as a group that is looking for handouts. It wants to live fully in French in a country that recognizes the role played by francophones and to contribute fully as citizens to the country's advancement. In demographic terms, in other words, because of our numbers, we clearly need additional support if we want to achieve equality with regard to rights and services.

• (1050)

Mr. Richard Nadeau: Thank you.

Ms. Foullem, your organization represents all of the Acadie. What feedback did you get from member organizations in your region regarding the elimination of the Court Challenges Program?

Mrs. Ghislaine Foullem: As you know, 25% of all francophones living in a minority community in Canada are in New Brunswick. The 32 provincial organizations that we represent—and there are many more at the regional and local levels—were appalled when they heard the announcement.

As I said, as regards democracy, it gave us an opportunity to defend our rights when government did not interpret legislation in the same way as our community did. As someone said earlier, the law evolves and laws must also evolve. What was good in 1931 may no longer be good in 2007.

Therefore, we must move the legislation forward and it is crucial to have this program or some other program that would give us the same resources to defend our position in court when discussion, dialogue and diplomacy have failed to allow us to reach an agreement with the government.

Now, what can we do when things do not work out? We take our case to court, but, as you know, that is very expensive. Therefore, I think this is undemocratic and unfair for communities that do not have the resources or the money to take their cases to court, whereas the government goes to court at taxpayers' expense. Everyone should have an equal chance.

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

The bell began to ring while you were giving your answer. According to my information, it will last for 30 minutes. There are two members left in the third round of questions. Do committee members want to adjourn, or should we let the two speakers conclude before adjourning, given that we are right next door to the House? Would you prefer to go ahead and finish the round of questions?

Some members: Yes.

The Chair: Excellent.

Now, Mr. Harvey, you have five minutes.

Mr. Luc Harvey: The Court Challenges Program was created to fund court cases that can promote the equality rights and language rights guaranteed by the Canadian Constitution and Charter.

A case becomes a test case if it has to do with an issue that has not been taken to court. Such cases must help minority official language communities in Canada to protect their language rights.

According to the agreement with Heritage Canada, the Court Challenges Program cannot be used to fund challenges of the laws, policies or practices of the provinces or territories, cases that raise issues that have already been funded by the Court Challenges Program or that are before the courts or complaints regarding the Official Languages Act.

Ms. Foulem, there are three other ways to fund lawsuits in order to protect one's rights, namely provincial or territorial legal aid, the Canadian Human Rights Commission and the Office of the Commissioner of Official Languages. Apart from the Court Challenges Program, have you used any of those programs or do you know whether they have been used for covering legal costs?

• (1055)

Mrs. Ghislaine Foulem: I know that we have called upon the Official Languages Commissioner to be a witness in cases that we have brought before the courts. In most cases, to pay for preliminary research and all the other expenses of taking cases to court, the only program that met our needs was the Court Challenges Program. If the other programs had met our needs, we would certainly have used them if we needed to.

Mr. Luc Harvey: If I understand correctly, you are not necessarily familiar with the other three programs that I mentioned for covering your court costs in challenges involving minority rights in your province or with the organizations with which you work.

Mrs. Ghislaine Foulem: To my knowledge, legal aid is not necessarily meant for defending language rights. As I said, we have already called upon the Office of the Commissioner of Official Languages. The commissioner has the power to take cases to court. However, the Court Challenges Program was the one we used because it was the one that met the needs of our cases.

Mr. Luc Harvey: Ms. Routhier-Boudreau, apart from the Court Challenges Program, have you ever used one of the three programs that I just mentioned? Did you work only with the Court Challenges Program?

Ms. Lise Routhier-Boudreau: To my knowledge, the Court Challenges Program was the only one that could help us with the kind of cases that we had. Regarding the office of the commissioner, according to our information, although we can file complaints, we have no access to funding from the office to pay for legal expenses.

Mr. Luc Harvey: How much time do we have left, Mr. Chairman?

The Chair: You have one minute.

Mr. Luc Harvey: This means that you could file complaints with the office of the commissioner, but you will not be in a position to manage the financial side of the lawsuits. Am I right?

Ms. Lise Routhier-Boudreau: We would manage the financial side at all.

Mr. Luc Harvey: Ms. Martin-Laforge, could you answer the same question?

Mrs. Sylvia Martin-Laforge: In my opinion, the three ways of lodging complaints are exactly that: three different ways of proceeding depending on the case, the scope of the complaint and what we want to obtain. In Quebec, the Court Challenges Program was the one that we needed when we used it. The other alternatives were not suitable for bringing our cases to court.

Mr. Luc Harvey: Very well, Mr. Chairman.

The Chair: Thank you.

Mr. Godin, you will be the last member to have the floor.

Mr. Yvon Godin: Are we counting time according to Rogers or according to Bell? If it is the former, I have five minutes left, and if it is the latter, I have no time left.

My question is addressed to Ms. Routhier-Boudreau. I am referring to an article in *Le Droit* dated June 5, 2007 that says that half of the positions in the federal public service are unilingual English. It also states that bilingual positions account for around 40%, whereas unilingual francophone positions are decreasing in number and represent only 4% of the entire number of positions. These are the facts.

Once again, is it not disturbing to see that the Conservative government wants to abolish the Court Challenges Program, which helps minorities? I do not like to use the term "minorities" because we should be equal and we should not even have to raise the issue, but do you agree with me that this is another setback for minorities, one from which it will be difficult to recover?

Ms. Lise Routhier-Boudreau: In our opinion, the repercussions of the elimination of the Court Challenges Program are extremely worrying, I would even say alarming, as regards helping francophone communities advance their rights. We clearly need tangible support from the various levels of government for actions that foster respect for minorities, which is a source of pride for Canada. It is important for a government to show that it supports all aspects of its minorities, and the francophonie is certainly an aspect that should be promoted and preserved.

• (1100)

Mr. Yvon Godin: That applies just as much to francophones living outside Quebec as it does to anglophones living in Quebec.

Ms. Lise Routhier-Boudreau: It applies to all of these minorities.

Mr. Yvon Godin: To all of these minorities.

Thank you, Mr. Chairman. It is 11 o'clock. We should do our duty and vote.

The Chair: I would like to thank the witnesses and apologize for the confusion. I hope that you appreciated this meeting. Speaking for myself, it was extremely productive. Thank you very much.

The meeting is adjourned.

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