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**Thursday, November 29, 2018**

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**Chair**

**The Honourable Denis Paradis**



## Standing Committee on Official Languages

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• (0850)

[*Translation*]

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

This morning we are very pleased to welcome Michel A. Carrier, Interim Commissioner, from the Office of the Commissioner of Official Languages for New Brunswick. He is accompanied by Hugues Beaulieu, his Executive Director.

We also have François Boileau, Commissioner, from the Office of the French Language Services Commissioner, and Joseph Morin, Legal Counsel. Gentlemen, welcome to the Standing Committee on Official Languages, in circumstances with which you are familiar.

We will proceed as follows: you will have 10 minutes each to make a presentation. Then, as usual, the members of the committee will ask questions or make comments for the rest of our time. Mr. Carrier, do you wish to begin?

We are listening.

**Mr. Michel Carrier (Interim Commissioner, Office of the Commissioner of Official Languages for New Brunswick):** Thank you, Mr. Chair.

First of all, since the meeting is televised, I thought the committee would be offering make-up service, not for you or me, Mr. Chair, since we're both young and good-looking, but my colleague, who has been under enormous stress for the past two weeks, could have used some foundation and a little rouge, but never mind.

Mr. Chair, ladies and gentlemen, members of the committee, good morning.

We are very pleased to appear before you today to outline our position on the modernization of the Official Languages Act.

[*English*]

The Commissioner of Official Languages for New Brunswick is an independent officer of the Legislative Assembly of New Brunswick. His role is to investigate, report and make recommendations with regard to compliance with the New Brunswick Official Languages Act. The commissioner also has a mandate to promote the advancement of both official languages in the province. It is under this promotion mandate that we wish to propose changes to the federal Official Languages Act.

[*Translation*]

The Office of the Commissioner of Official Languages for New Brunswick has prepared a brief on this matter. A few weeks ago, we officially submitted that brief to the Standing Senate Committee on Official Languages.

[*English*]

Part 1 of this brief describes New Brunswick's legal uniqueness in terms of language rights, and the shortcomings of the federal system created by the Official Languages Act in 1988 with regard to our province.

Part 2 calls on Parliament to address these gaps by recognizing New Brunswick's uniqueness in a modernized federal official languages act, and wherever possible, aligning the federal and New Brunswick language regimes.

Part 3 encourages Parliament to draw from the wealth of New Brunswick's 50 years of experience with official languages, particularly the most recent version of the New Brunswick Official Languages Act.

[*Translation*]

Allow me to summarize the first two parts of our brief. Our office recommends that the federal Official Languages Act be amended to align the obligations of the federal and New Brunswick governments to offer services to and communicate with the public in both official languages.

As you know, at the federal level, members of the public have the right to use English or French to communicate with or receive services from the offices of institutions of Parliament or the government of Canada where there is a significant demand or due to the nature of the office. This means that the federal act allows several offices of federal institutions in New Brunswick to be unilingual. Currently, at least two federal offices in New Brunswick offer services only in French and at least 51 federal offices offer services only in English. Examples of this are cited in our brief.

At the provincial level, however, the people of New Brunswick have the unconditional right to use English or French to communicate with or receive services from any office of an institution of the legislature or government of New Brunswick. In other words, the condition of significant demand does not apply to the provincial institutions of New Brunswick.

•(0855)

[English]

In New Brunswick, there is therefore a striking divergence between the complete institutional bilingualism and provincial communications and services and the partial and localized bilingualism in federal institutions. Parliament should therefore adjust the wording in section 22 of the federal Official Languages Act to reflect, in New Brunswick, the constitutional framework in which it operates, and to ensure that the federal system is consistent with New Brunswick's complete institutional bilingualism.

The Office of the Commissioner of Official Languages for New Brunswick calls on Parliament to modernize the federal Official Languages Act in order to expressly require that the federal government offer its services and communicate in both official languages throughout New Brunswick. To achieve this, all that is required is to provide that the obligations set out in section 22 apply to all offices of federal institutions in New Brunswick.

[Translation]

Section 16.1 of the Charter entrenches the equal rights and privileges of the English and French communities in New Brunswick, including their right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

This constitutional recognition, unique in Canada, is not reflected anywhere in the current federal act. Yet, the equal rights and privileges of New Brunswick's official language communities must influence federal public policies.

[English]

Parliament should modernize the federal act in light of the addition of section 16.1 of the charter in 1993, to provide for and regulate the federal government's obligation to consider the equal rights and privileges of New Brunswick's English and French communities. Such modernization could be achieved by providing, in part VII of the federal act, an additional commitment—along with an obligation to take positive measures to implement it by the federal government—to recognize and promote the equality of status and equal rights of New Brunswick's English and French linguistic communities, including the right of these communities to distinct educational and cultural institutions necessary for their protection and promotion.

For example, the constitutional equality of both official linguistic communities in New Brunswick should guide the development and implementation of the federal government's immigration policies. The federal Official Languages Act should require the federal government to take into account New Brunswick's specific linguistic balance and the recognition of the equality of status and equal rights and privileges of the province's two linguistic communities in its immigration policies, so as to maintain the existing linguistic balance.

[Translation]

The addition of section 16.1 to Canada's Official Languages Act must help to support the act's practical application by means of statutory provisions specific to our province. In other words, the

addition of section 16.1 to Canada's Official Languages Act must help to apply the principle of equality between our two linguistic communities. A modernization of Canada's Official Languages Act has the power to provide considerable support to the vitality of New Brunswick's official language communities.

Thank you for your attention.

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

Now we will hear from Mr. Boileau from Ontario.

**Mr. François Boileau (Commissioner of Ontario, Office of the French Language Services Commissioner):** Mr. Chair, ladies and gentlemen members, I am very pleased to be with you today.

I am accompanied by Joseph Morin, our legal counsel. I am also very pleased to find myself once again appearing before a parliamentary committee with my colleague from New Brunswick.

I would like to thank you for allowing me to appear today in order to present a brief regarding important issues that need to be addressed in the context of a modernization of the Official Languages Act.

[English]

We were all glad when the Prime Minister announced that he was committed to modernizing the act. Your colleagues from the other place have already started their study, and your work here will be a great complement.

The Official Languages Act can and must be a beacon in the field of co-operation between the federal government and the provinces and territories, but to do this it must be modernized in many ways. The actors haven't changed in 50 years, but their roles and responsibilities in official languages have significantly evolved, as have the official language minority communities.

[Translation]

Ontario is grappling with the same debate: two years ago, I recommended to the Government to modernize the French Language Services Act, because like the Official Languages Act, it no longer answers to the realities of our society. I was heard, but perhaps not in the right way.

First, I will review the new Official Languages (Communications with and Services to the Public) Regulations. Having said that, I am satisfied that my federal colleagues will be making much more specific comments.

Secondly, I will recommend that you strengthen the sections on the active offer of services.

Thirdly, I will highlight the importance of mandating the application of Official Languages Act to a central agency.

Finally, I will take the final minutes of my speech to explain my vision of the role of a language commissioner.

• (0900)

[English]

The Canada of today is not the same as that of the 1980s. The French-speaking population is rich in its diversity through immigration as well as youth resulting from exogamous families and from francophiles.

In my very first annual report, I recommended to the minister delegated to francophone affairs of Ontario, as it was known then, to review the definition of the French-speaking population to ensure that it adequately reflected the new reality of this population. The method used at the time took into account only the mother tongue, which excluded more than 50,000 Franco-Ontarians.

[Translation]

For example, an immigrant family having Arabic as a first language, but who often communicated amongst themselves in the house either in Arabic or French, was not considered by the government to be part of the Francophone population of Ontario. And yet they lived in French. The moment they set foot outside, the family lived in French. They sent their children to French-language schools, took part in activities in the Francophone community, going to Francophone theatres, reading Francophone newspapers and consuming Francophone media, but were not considered Franco-phonie.

Consequently, I am pleased and proud that the Government of Ontario adopted in 2009 the Inclusive Definition of Francophone, or what we in Ontario call the IDF.

This new method now captures those whose mother-tongue is neither French nor English, but who have good knowledge of French and use it at home, like our family who has Arabic as their mother-tongue.

I also expressed the wish that a more inclusive definition of Francophones be proliferated in other provinces and within the Federal government. I sincerely believe that a more inclusive definition of the Francophonie ought to be a component of a renewed cooperative federalism, focused on the specific interests and needs of the official language minority communities.

On October 25, ministers Joly and Brison unveiled a plan to modify the Regulations. The new method of calculating significant demand in the Regulations is more inclusive and allows more Canadians to receive services. Significant demand will grow, and so too will the number of government offices that will have to serve people in the language of their choice.

[English]

Although the regulations are still not quite user-friendly, I'm pleased to see that, under the new regulation, the community's vitality will be considered in the planning of services. It's not quite clear how it will be integrated fully. That's something that remains to be worked out, preferably with your help and with the help of my federal colleague, but still, it's there.

As I recommended, elementary and secondary schools will be important vitality indicators and will have an impact on the calculation of "significant demand". You must now ensure that the

modernized Official Languages Act reflects the same vision evoked in the regulations and is based on an inclusive and qualitative definition of "significant demand".

[Translation]

I want to add a comment on the Regulations. They still have some grey areas. The travelling public issue has not really been resolved in the new Regulations. I think the Treasury Board made a good effort preparing these Regulations, but further work on them is required, and your committee should take time to examine them in detail.

Like the Inclusive Definition of Francophone, the Active Offer was one of my priorities for my vision of French-language service delivery in Ontario. In fact, in 2016, I filed a Special report with the Legislative Assembly of Ontario on the Active Offer and its importance in achieving the objectives of the French Language Services Act.

Active offer is particularly essential when the public in question is vulnerable. I received several testimonials about the importance of the Active Offer, notably in the health sector.

[English]

I remember an example when I was in a government office located in a space belonging to a French-language college in northern Ontario. The employees were speaking in French. The customers were conversing in French as well. The display was in both languages. However, when the employee spoke only in English to the client, the whole thing happened in the language of Shakespeare.

[Translation]

The Active Offer is essential for the delivery of services in the language of the minority. You will agree, it's probably not in the midst of a medical procedure that a Francophone will demand to have their linguistic rights respected...nor will a teenager, overwhelmed by addiction, having just given birth and with the Children's Aid Society knocking at her door, will she then ask to get a psychosocial assessment in French. It's impossible. Consequently, we must create an environment that makes these people feel safe enough to request services in French. For that to happen, we must actively offer those services.

I recommend that Parliament amend the Official Languages Act in order to provide for an obligation to adopt an Active Offer regulation.

Parliament may include in this regulation an explicit definition of the Active Offer in addition to clear criteria to be met, which could include the following elements: culturally appropriate measures to be taken on first contact; the citizen's choice of language; the citizen's comfort; and quality of service equal or equivalent to that of the service offered in English.

All that's in our brief as well.

As regards the central agency, the Official Languages Act mandates the Treasury Board and Heritage Canada to implement it, but doesn't impose any specific obligations in terms of coordinating obligations devolved to federal institutions.

This causes many problems because if the Treasury Board doesn't prioritize the implementation of the Official Languages Act, the task falls to Heritage Canada. Heritage Canada doesn't, and never will, have either the necessary authority or the influence over the other departments to discharge its mandate.

At the time when the Honorable Stéphane Dion was President of the Privy Council, this central agency was able to play a more determinative role. For example, all submissions to cabinet had to go through an Official Languages Lens.

However, since that time, the council's role and engagement have considerably diminished.

Over the years, I put forward different recommendations in this sense in Ontario to improve the analysis of all files sent to Cabinet, by a filter that considers their impact on the application of the French Language Services Act, but without great success.

I therefore highlight that, as a central agency specifically named in the Official Languages Act, the Treasury Board will be able to ensure that departments and other federal institutions will be able to respect their obligations pursuant to the Act.

In my opinion, the real work involved in implementing the Official Languages Act therefore falls to the Treasury Board, and the act should be amended accordingly.

Now let's talk about the role of the Commissioner of Official Languages. Other groups will come before you and call for powers that are more coercive for the commissioner, or the creation of a language rights tribunal. All these ideas deserve your attention. But my role here is to shed light on an aspect of our job that seems to be misunderstood—that a language commissioner is an advisor.

● (0905)

[English]

Language commissioners are ombudsmen. They receive complaints and work to find solutions acceptable to both parties. In that sense, they are also mediators.

Being a commissioner also requires one to be proactive. An admissible and founded complaint is in fact a violation of the French Language Services Act. This might mean that there isn't a bilingual employee when a person is attempting to buy a fishing licence. It might mean there isn't a single hospital in the GTA that has a mandate to offer health services in French.

[Translation]

An admissible and founded complaint may arise from the fact that a Francophone child, Noémie, might be taken by a children's aid society and placed with an Anglophone family, jeopardizing her cultural and linguistic identity. In all of these potential complaints, we see failure. Damage is done. But as commissioners, we aim to prevent these failures by putting forward recommendations following investigations or on our own initiative. In other words, this is the work of an ombudsman. Commissioners become important actors and useful advisors for ministers. Followed advice might prevent numerous problems and complaints.

[English]

If you invited me today, it is because you require my expertise and experience and our advice on how to best plan for the best interests of official language minority communities.

[Translation]

To advise, as a mandate, is essential to the role of commissioner. We must be able to directly interact with ministers and public servants to recommend strategies for the development and implementation of public policy that respect both statutory obligations and the needs of the communities.

The government, of whichever stripe, received a mandate to govern. It often comes down to commissioners to remind governments that they have obligations to understand the needs of official language minority communities and that they must adapt their policies in consequence.

Which brings me to my second point, consultation and promotion. Ever since the beginning of my mandate, I worked tirelessly to understand the communities to whom the French Language Services Act gave rights. It is only by going to speak to people that we can understand their realities, their challenges and their aspirations. In addition to consultation, I promote the act and the obligations it imposes on government agencies and service providers.

Please think back to Noémie, the young girl that was placed with an Anglophone family. These are evidently situations we want to avoid and stop, so I tried to meet all children aid societies, like I met with service providers working in health, justice and immigration, to explain to them the importance of understanding the Francophone communities. I highlighted for them that although the French Language Services Act gives them obligations, acting in the best interest of individuals supersedes the Act—it's a question of doing the right thing for the individual, their family and their community.

Consultation and promotion work are part of being proactive. If, at the outset of policy development, the government receives and follows a commissioner's judicious advice, it might mean avoiding wasting resources and time, and consequently strengthening its efficiency.

I would like to add that consulting official language minority communities, mobilizing knowledge and offering advice could take many forms.

● (0910)

[English]

In my last annual report, I projected the francophone community of Ontario over the next 10 years. The diagnostic is not encouraging. Even though the number of francophones will grow, their proportion will fall dangerously to less than 4%.

My recommendation to the Minister for Francophone Affairs, which she accepted, is to provide the government with an action plan on the development of francophone communities and the promotion of the French language in Ontario.

[*Translation*]

To crystalize this annual report's recommendations, the OFLSC organized this past Monday a symposium, Looking Ahead, Getting Ready. More than 230 experts, members of government and community representatives met to discuss the issues raised in the report concerning health, digitization of public services, aging population, immigration, restructuring of in-person services, and production and dissemination of French digital content, including in media. That's proactive work that was done based on the interests of the Francophone community, not in reaction to complaints, as the ombudsman's work might suggest.

In conclusion, and I'll be very brief, I'd like to talk to you about cooperative federalism. We have a duty to establish real mechanisms, and we talk about that in our brief.

We are ombudsmen, mediators, advisors, protectors, promoters and convenors. Those are the roles of an official languages commissioner or a French-language services commissioner in Ontario. We play all those roles.

In closing, I would like to emphasize that we have produced and will distribute to all members of the committee an infographic on Francophones in Ontario, which was just released last Monday. We have several copies. This infographic really talks about the Francophone community.

We have begun to organize a major conference. As you know, our organization is a member of the International Association of Language Commissioners, which meets every year and will do so in Toronto in June 2019.

Now we'll be pleased to answer your questions.

**The Chair:** Thank you very much for your excellent presentations, Mr. Carrier and Mr. Boileau.

Without further ado, let's begin a round with Mr. Alupa Clarke.

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

Good morning, everyone.

Mr. Carrier and Mr. Boileau, I'm very pleased that you're with us this morning.

Mr. Boileau, I believe the last two weeks have been very busy for you, but I'm pleased you seem to be in good form, cheery and ready for a fight.

I wanted to tell you that language rights are very important for us in the Conservative Party of Canada. We're very happy that there was a meeting at the summit that our leader and the Prime Minister attended and that what emerged was a will to work together on language rights in Ontario.

That being said, this morning we are focusing on the modernization of the Official Languages Act. I have a few direct questions for you, and you have, in a way, addressed them this morning.

Would you be more in favour of establishing an administrative tribunal or giving coercive powers to the federal government's Commissioner of Official Languages?

**The Chair:** If I may make a comment here before you answer, I would ask members to say to whom they're directing their questions. You have two commissioners before you.

**Mr. Alupa Clarke:** Yes.

**The Chair:** One question may be put to both, and they may answer it in turn.

I'm asking this of all members.

**Mr. Alupa Clarke:** Thank you, Mr. Chair; you're right.

My question was for both commissioners.

**Mr. Michel Carrier:** I'm not in favour of coercive powers being granted to the Office of the Commissioner. That was reflected in my colleague's last comments: a commissioner's work is that of a diplomat, advisor and convenor. It's up to the political wing to act on recommendations and to the public to react as well if recommendations are not followed.

It would really be hard to engage and, especially, appeal to the majority community if we had those kinds of powers. I think we can manage to do this work in accordance with the mandate given us without having more power.

● (0915)

**Mr. Alupa Clarke:** So you're in favour of a tribunal.

**Mr. Michel Carrier:** I'll leave it to others to comment on the federal tribunal issue. For the purposes of our office, I'm not convinced that would add anything.

I recently looked at the New Brunswick Human Rights Commission. It took seven years to settle one case in particular, and it wasn't because the commission was very busy. I imagine it takes all that time because it's a commission. We know a whole process is involved, including natural justice. That doesn't mean they don't follow principles of justice, but lawyers would nevertheless get involved and that might delay matters. It can also cause more animosity.

I'm commenting for our province only, but I don't think adding a tribunal would enhance what we do in New Brunswick, for the moment at least.

**Mr. Alupa Clarke:** Thank you, Mr. Carrier.

Mr. Boileau, do you want to add anything?

**Mr. François Boileau:** I entirely agree with what my colleague just said.

You have to understand that the senior public service has what we call competing priorities. It receives a lot of requests from everywhere, and it's very sensitive to which way the wind blows, and by that I mean the source of leadership.

If work was done upstream by a central agency that's well versed in the Official Languages Act, related regulations and what must be done to ensure genuine compliance with the obligations under the act, there would be fewer complaints downstream and we'd have less work to do.

**Mr. Alupa Clarke:** If you had to choose, which would you prefer?

**Mr. François Boileau:** If I had to choose? Upstream work, without a doubt, because...

**Mr. Alupa Clarke:** Would you choose an administrative tribunal or coercive powers?

**Mr. François Boileau:** I think the tribunal would burden the process and potentially result in less accountability for certain departments, which would turn to the courts and wait to be told what to do.

**Mr. Alupa Clarke:** That's interesting.

**Mr. François Boileau:** It can take a lot of time, and I don't think that's the solution.

It would be much better to work with the institutions upstream. We would also need a strong central agency with very specific regulations and performance indicators. The senior public service should also be accountable for progress made on the various parts of the Official Languages Act.

**Mr. Alupa Clarke:** I'm surprised to hear that, since all the evidence we've heard thus far leans more toward an administrative tribunal, but I'll take note of what you've said.

Mr. Boileau, you mentioned that there was an official languages secretariat in the Privy Council during Mr. Dion's time. However, you concluded your presentation by saying you would prefer that the Treasury Board be the central agency that enforces the act within government.

Why do you lean toward the Treasury Board rather than a new official languages secretariat within the Privy Council?

**Mr. François Boileau:** I think the Treasury Board already plays a role in the administration of all acts. It also controls budgets, which is practical. Consequently, it has a significant influence on all the departments and agencies of the Government of Canada precisely because it has the final say on budgets. Consequently, it can have a direct impact on efforts to achieve the objectives of the Official Languages Act.

**Mr. Alupa Clarke:** Thank you.

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

Now we travel to New Brunswick with René Arseneault.

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

I'd like to continue along the same lines as my friend Mr. Clarke.

First, I would note that the Liberal Party is truly standing behind people in this storm, ready to work proactively. We are also pleased to see the public movement on this issue, a movement that is now nationwide. It started here in Ontario, but has become national in scope. So you can rely on the Liberals at least to look for all potential solutions and to help you in that regard.

I'm surprised to hear that too, Mr. Carrier and Mr. Boileau. Incidentally, Mr. Carrier was the first Commissioner of Official Languages for New Brunswick, and he was the secretary of the Law Society of New Brunswick just before that, when I was admitted to the bar and you didn't need make-up to appear on television. So he has a lot of experience. He's currently serving an interim term and will be for nearly another two years.

● (0920)

I'm surprised too because we've heard from a lot of witnesses, and a consensus seemed to be emerging that the commissioner should be both commissioner and investigator and that a tribunal should decide disputes. I hear what you say, and it's true that it's striking: it would reduce the accountability of the departments, which would simply set this matter aside.

Mr. Carrier, you talked about the New Brunswick Human Rights Commission, where cases may drag on for seven years. I can understand the inefficiency of an administrative tribunal, but wouldn't there be some way to create an administrative tribunal for official languages with parameters and deadlines, as we do in New Brunswick for small claims, for example?

**Mr. Michel Carrier:** That could be done, but you asked me what I thought. We seem to have different opinions of what you've previously heard; so that's fine.

**Mr. René Arseneault:** I should note that it was lawyers who talked about establishing a tribunal.

**Mr. Michel Carrier:** Oh, yes, lawyers. We're lawyers too, or almost.

I'm giving you my opinion. The political world has to be involved. Are we making the political world less accountable by adding another level? We at the Office of the Commissioner have the courts. We've realized that the courts in New Brunswick and elsewhere work quite well. They also take less time. Some decisions have wound up before the Supreme Court after three or four years. I think we have to work upstream.

I've often been informed of politicians' comments. They told lawyers who were instituting official languages proceedings that they agreed with them but that they didn't want to make those kinds of decisions; they wanted them to be made by an administrative tribunal or a court—the Superior Court or the Supreme Court—because that relieved them of their responsibility.

I think that amounts to a lack of courage.

**Mr. René Arseneault:** That's for sure.

**Mr. Michel Carrier:** It's a lack of commitment and a lack of understanding. It's all well and good to say that there's a lack of courage and understanding, but how can we create it? I think we have to work upstream.

New Brunswick's Official Languages Act was passed in 1969. It was revised in 2002, and the position of commissioner was created. Consequently, the Office of the Commissioner has been around for 16 years. We recently conducted a study, a kind of audit of government services. There has been a significant improvement in official languages. We don't hear about that. We mainly hear about shortcomings and problems, but there has been an improvement.



I think the Office of the Commissioner has had an impact, but work had to be done upstream by meeting with senior management. Even if we work remotely with the ministers, departments and institutions, it's possible to have these discussions, and we've had them in an attempt to make ourselves understood. People are apologetic and say that the Official Languages Act has been around for 50 years but that we're still fighting the same battles.

**Mr. René Arseneault:** I understand what you say, but I'm playing the devil's advocate.

Other witnesses have told us that amendments should perhaps be made to subsection 46(2) in part VIII of Canada's Official Languages Act to add part VII to the Treasury Board's responsibilities. That's an option. Politicians often lack courage. The Treasury Board is managed by a minister, a person who may lack courage. Under the last New Brunswick government, for example, Minister Arseneault criticized the Commissioner of Official Languages of that time when she was merely doing her job. Some politicians are likely to waver before linguistic obligations.

How could we ensure that an amendment to the act giving the Treasury Board more powers wouldn't result in this lack of political courage and would give this obligation quasi-constitutional status?

• (0925)

**Mr. François Boileau:** We would need very clear directives and strong regulations that, when implemented, would leave no doubt, and there would have to be consequences if they weren't implemented.

If senior officials themselves were responsible and were assessed based on performance in areas including the various parts of the Official Languages Act, that would generate momentum and increased accountability.

I'm also asking you to be careful if you give more coercive powers to the commissioner, who's already having a tough time of it. I know we're talking about an administrative tribunal, but we're also talking about coercive powers. The commissioner ceases to be a mediator the moment he reports that the act has been contravened. Since he must hear all parties, that vastly complicates the commissioner's work. Be careful there.

Think carefully before conferring coercive powers that would undermine the commissioner's ability to find quick alternative solutions to complaints both in New Brunswick and in Ontario. This would remove mediation from his mandate. He would have to engage in a judicial process, listening to one party and then the other, and then deciding in favour of one of them. It would be complicated.

**Mr. René Arseneault:** It would be dangerous.

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

Now we'll move on to Mr. Choquette.

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

Thanks to you, Commissioner, and the people who have accompanied you.

Before discussing the modernization of the Official Languages Act, I would like to explain the

circumstances in which we now find ourselves. The Commissioner of Official Languages of Canada recently wrote, in a letter dated November 23, 2018, that we were witnessing an "erosion of rights [that] goes beyond Ontario's borders." Here are some excerpts from that letter: As we've seen, the shock wave created by this announcement has sparked outrage not only among Ontario Francophones,...

We're starting to see examples of this well beyond Ontario's borders, like the decision to move Saskatchewan's Francophone Affairs Branch from the province's Executive Council to the Ministry of Parks, Culture and Sport; the uncertainty surrounding the future of linguistic duality in New Brunswick following the most recent provincial election;...

He also wrote, obviously, about the dissolution of the Office of the French Language Services Commissioner of Ontario and the Université de l'Ontario français.

Do you agree with the vision of the Commissioner of Official Languages, who feels that something is happening now? You're having a difficult time, and there appear to be attacks and infringements of rights to French-language services across the country.

**Mr. Michel Carrier:** That's your baby.

**Mr. François Boileau:** That's a very difficult question, Mr. Carrier.

Neither Mr. Carrier nor I will be making any political comments today; that's quite clear.

However, as for eroding rights, it must be acknowledged that there is a movement. When you let populism settle in and give it a voice, when people express themselves freely, especially on social media, and when a popular fringe becomes noisier and more visible, that takes up public space. If we allow them that public space, most people will obviously feel legitimized and assert their views.

Let's get one thing straight: it's good to express all points of view in a democracy. The idea isn't to censor people or restrict their speech, what they preach and what they believe. However, reality is often somewhat obscured by certain versions of the facts.

What's the issue when people are told that official languages cost billions and billions of dollars? The issue is the truth. It's to make those people understand that this isn't entirely the case and that it would cost more not to offer services in French.

In Ontario, first of all, if a senior goes to the doctor and doesn't understand instructions, returns home and has to go back to the doctor's office or, even worse, to the emergency department, health costs have just tripled.

The same thing applies to mental health and young people. There are many potential situations of this kind. The point of the official languages issue is not just to allow communication in both languages; it's to provide service that's appropriate to those individuals.

When I hear that the office of Manitoba's assistant deputy minister of education is being shut down and the ministry's duties absorbed by the department, it seems to me that sends a strange message. Efficiency concerns are often cited. In that instance, a position that costs \$100,000 or \$110,000 is being eliminated. Will that really make the government more efficient? The same is true of my office in Ontario. The government wanted to abolish it for reasons of efficiency, but one may well wonder why.

• (0930)

**Mr. François Choquette:** Let's talk about your office in Ontario.

What would be the difference if you wound up in the Office of the Ombudsman? You commented on that, but why is it so important to retain that independence? You're going to lose your independence if the Office of the Commissioner winds up there. Furthermore, there's no certainty it will be you, since it's the ombudsman who would hire someone. It wouldn't be the Premier of Ontario who told you where to go.

What would that change in real terms?

**Mr. François Boileau:** A francophone institution is currently part of the Legislative Assembly. That's a symbolic aspect.

However, another aspect is much more important. The Office of the French Language Services Commissioner isn't an organization of last resort like the Office of the Ontario Ombudsman.

Our mandate is to prevent; we're proactive. We do an ombudsman's work, and we receive complaints, but we don't do just that. We play a protective and promotional role.

As I mentioned earlier, in my introduction, the very fact that we're talking about another university is important. Of course, it's been percolating for 40 years, but here's another example.

In 2012, when we tabled our report on an investigation that we had conducted at my initiative, not in response to complaints, we did so precisely to emphasize the lack of French-language programs available in central-southwestern Ontario, a growing region of 250,000 inhabitants.

Half of francophones in the Toronto area aren't native-born Canadians. It's a very diverse population. Eight out of 14 members of my team were not born in Canada. This population has the largest percentage of francophones who are studying at the postsecondary level and, paradoxically, the fewest institutions: at the time, in 2012, between 0% and 3% of postsecondary institutions were francophone.

The entire debate on this project and on the very essence of the university was restarted thanks to the work of the commissioner, if you will. The ombudsman won't be able to do that; it's not in his DNA to do it. That has nothing to do with Paul Dubé, who is an excellent ombudsman; it's simply not in an ombudsman's DNA.

**Mr. François Choquette:** It's not his role.

Mr. Carrier, do you have the same feeling that rights are eroding or that French-language services are under attack?

**Mr. Michel Carrier:** As you know, people are concerned that they have provincial MLAs who belong to a movement that seems to oppose official bilingualism. It shouts from the rooftops that it opposes bilingualism, but that same party stated in its election

platform that it wanted to abolish the commissioner position. So that raises some questions.

So I'm concerned, but the commission's role is to react. Consequently, after Mr. Higgs's party took power, I met with the premier, and we spent 90 minutes talking about issues pertaining to bilingualism and closer relations between communities. I also met with the minister of education. When I go home tomorrow, I'll meet with the leader of the People's Alliance Party, Mr. Austin, and we'll talk "dans la face," as we say back home. That's a role that I can play as commissioner because I'm independent, neutral, objective and very smart, as you can see.

**Some hon. members:** Oh, oh!

**Mr. Michel Carrier:** I was waiting for you to say it, Mr. Arseneault.

That's a role that we can play. So we can lament the situation, but we can't stop, and that's why it's important to maintain an Office of the Commissioner.

Mr. Boileau has done an extraordinary job, and the people who followed him have seen that his work is respectful of all Ontario communities. It's beyond me how anyone can decide to reject out of hand a key player in Ontario's francophonie. I'm not the only one who has been overwhelmed by that decision. There are going to be demonstrations, and they will continue.

You have to acknowledge the role that the populism he cited plays in the current situation. People are detached and don't trust the elite. Consequently, we must try—I think Mr. Doucet said this earlier—to engage the minority and show that these are fundamental values for everyone. However, that's not understood by everyone.

Have I gone on too long, Mr. Chair?

• (0935)

**The Chair:** No, that's fine.

Thank you, Mr. Choquette.

Now it's Mrs. Fortier's turn.

**Mrs. Mona Fortier (Ottawa—Vanier, Lib.):** Good morning.

Thank you very much for being here this morning.

I represent the riding of Ottawa—Vanier, a very strong francophone and francophile community where French is in people's DNA. We are currently in a state of shock as a result of what's going on in Ontario. Before my career as an MP, I was privileged to sit on the Provincial Advisory Committee on Francophone Affairs when Ms. Meilleur was minister. I was a member for nearly eight years.

I can attest to the transformation that the role of commissioner underwent from its creation in 2007, when the commissioner reported directly to the Minister of Francophone Affairs, to 2014, when the commissioner became independent. A transformation occurred in government, where it was understood that an independent officer was needed to determine how French-language services might be more efficiently provided in the province. The fact that the commissioner worked with the government was a major factor in advancing the situation.

Consequently, I want to acknowledge the work of the only commissioner we have had since the start. All the reports were constructive and we moved forward. I remember, in particular, the special report entitled, *Active Offer of Services in French: The Cornerstone for Achieving the Objectives of Ontario's French Language Services Act*. The community said we spoke a different language, but many government stakeholders did as well. I want to acknowledge the contribution of the previous government, which carried out the transformation, and I also want to emphasize that the commissioner showed considerable leadership in moving the independence project forward.

We have a new government now, and we're regressing. We've been told that, after all that's been done over all those years, there will be no more independence. We're regressing.

I'm going to direct my questions to Mr. Boileau, our commissioner. What can we do in the circumstances to protect the gains we've made in Ontario? How can we modernize the federal Official Languages Act to protect ourselves in the event of a change of government? What kind of teeth should the act be given to ensure it serves the interests of minority francophones and those of Canadian society as a whole, which benefits from the added value that English and French, Canada's two official languages, represent?

Can we learn lessons from what's happening and thus understand how to modernize the Official Languages Act so it has more teeth in future?

**Mr. François Boileau:** Ironically, when we were given our independence in December 2013, and it came into force in January 2014, the purpose of the process was to depoliticize the position of French Language Services Commissioner. Although I was selected following an exhaustive competition, for which thousands of people applied and in which I was selected as the best candidate, I nevertheless reported to the minister. Minister Madeleine Meilleur really gave me free rein to do my job, but another minister might have had different ideas. I could have been told to drop a particular investigation, for example. That individual could have sent a different signal. Consequently, it was recommended that the position report to the Legislative Assembly to prevent the issue of French-language services from being politicized. That's what happened in 2014.

However, I regret that the position itself has been abolished by a mere decision of the Legislative Assembly. All it took was a majority party in power and a simple amendment in an omnibus bill, whereas conditions for removing a commissioner or an independent officer are usually quite stringent. A commissioner's employment is normally terminated for cause. I consider this dangerous.

I don't exactly remember the wording of the federal Official Languages Act, but, to answer your question, I think we should ensure that the selected commissioner should be approved by two thirds of the House of Commons and the Senate. That in itself affords increased protection.

If we in Ontario are to abolish the positions of Environmental Commissioner, Children's Commissioner or, of course, French Language Services Commissioner, I'd like it to be done based on a discussion, a parliamentary debate in which all or two thirds of parliamentarians would be in agreement.

If I may, I'd officially like to table copies of all our annual reports with your committee. We've brought copies of all our annual and investigation reports.

I realize I'm encroaching on your speaking time, but I hereby submit the following documents: Special Report on French Language Health Services Planning in Ontario; Study on French-Language Community Radio; Investigation Report Regarding an English-Only H1N1 Flyer: From communication crash to communication coup, which provided a new directive on French-language communications; Follow-up on the Report—When the most elementary becomes secondary: Homework Incomplete, on French-language schools in the greater Toronto area; Investigation Report—The State of French Language Postsecondary Education in Central-Southwestern Ontario: *No access, no future*, to which I referred to earlier; a summary of roundtables from our Conference on 25 Years of the French Language Services Act; the report that Mr. Carrier, Graham Fraser and I prepared jointly on access to justice in both official languages; Investigation Report on the Cancellation of the Fellowships for Studying in French: It pays to do your homework; Time to Act for the Future of Francophone Communities: Redressing the Immigration Imbalance, another joint report with the federal commissioner; Investigation Report on the Centre Jules-Léger; Special Report—Active Offer of Services in French: The Cornerstone for Achieving the Objectives of Ontario's French Language Services Act, a summary of the report itself; another Follow-up on the Report—When the most elementary becomes secondary: Homework Incomplete; Study on Designation: Revitalizing the Provision of French Language Services; and A Directive without Direction: Challenges of Advertising in the Francophone Media of Ontario.

We did that; there were five of us, six in our good years, and that's what we've just lost.

• (0940)

**Mrs. Mona Fortier:** Thank you. That's clear.

I have another question for you. I'll continue it later because I'll need more than a minute to ask it. How can we improve federal-provincial relations regarding agreements. We have part VII of the Official Languages Act. How can we ensure that we have positive measures that will also encourage the provinces to play a role on the ground? I'd like to hear your opinion and your ideas on that point.

**Mr. Joseph Morin (Legal Counsel, Office of the French Language Services Commissioner):** The federal government increasingly uses federal-provincial/territorial agreements to ensure that francophones from outside Quebec and anglophones in Quebec enjoy protection, services and programs.

A better framework is required, whether it be in immigration, early childhood or justice. In British Columbia, the Federal Court very recently held that there was an agreement between the federal government and that of the province but that that agreement did not call for specific measures under part VII of the act. This is dangerous for the communities because part VII can be used to establish a positive duty of the federal government.

Basically, we must ensure that the agreements have strong and stringent linguistic clauses requiring both levels of government to be responsible for their services. We also need an accountability provision. If a province or territory receives federal funding for the official language minority communities, it must prove that it uses those funds to achieve the objectives included in the language clause of the federal-provincial/territorial agreement.

● (0945)

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

We will now take a break and suspend for a few minutes.

● (0945)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (0950)

**The Chair:** We will resume now.

I would invite Ms. Lambropoulos to speak.

[*English*]

**Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.):** Thank you very much, Mr. Chair.

Thank you to both commissioners for being here with us today.

You mentioned harmonizing what goes on at the provincial and federal levels with regard to commissioners. The Office of the French Language Services Commissioner of Ontario and the Office of the Commissioner of Official Languages of Canada recently went through a process whereby they harmonized. Can you please go into more detail and tell us why it's important to have this happen?

**Mr. François Boileau:** Are you talking about our agreement within our own commissioner's office?

**Ms. Emmanuella Lambropoulos:** Yes.

**Mr. François Boileau:** Okay.

It's very simple. We have an agreement as well with New Brunswick, and New Brunswick has an agreement with OCOL as well. What we do is this. We know that complainants usually don't know exactly who is in charge where. We find the place for them to go. If I receive a complaint in regard to a federal institution, then I will tell the complainant but also, if the complainant agrees, I will track this complaint to my federal colleague so that he in turn can take over. It's less hassle for the complainant, per se.

We also have an agreement to further our communications. We do share our own priorities. The fact that we had a study done together on access to justice in official and minority languages speaks to the fact that we do talk to each other. The fact that we created a report on immigration also speaks to the fact that both of us wanted to speak to our different governments at the same time and say the same thing. That was also a clear message that we work together and are asking the federal government and the provincial government to work together as well.

● (0955)

**Ms. Emmanuella Lambropoulos:** Thank you very much.

You made reference several times to the role of the commissioner, that basically they act as protector, as promoter, as mediator. We heard from so many of our witnesses that this role should maybe be divided and not all be under the belt of one single person. However,

you said that it's important to keep them all together, and that doing so would benefit the communities.

Can you please go into more detail about that? You also mentioned that they can't be too strong about something, because they also have to be a mediator. Don't you feel that maybe they're not as effective because they wear all of these hats?

**Mr. François Boileau:** The former federal commissioner used to use the line that his role was “part cheerleader, part nag”. In a way, it's true; we do have that role, and it's an important role. It's a reminder for government of our own obligations. It's also a promoter role. Whenever I go to conferences, I meet so many people throughout the province at different levels. Be it a mental health organization in Barrie or be it children's aid societies in the north, I meet with many anglophones. I don't arrive there saying, “You have an obligation.” I arrive there talking about the French community—its importance, its history, its role—and being an advocate for the French community, speaking about French in the world and how it is not a language in decline. Sometimes anglophones think that, because they don't have it in their faces on a daily basis, but actually it's a very fast-growing language in the world. There are 200 million French-speaking locutors today. There will be more than 700 million by 2050.

With regard to this job, at the end of all of my presentations I tell people that I hope my message was clear. This is not about making sure you offer the service because you are obligated to but because it's the right thing to do. It's the right thing to do for the individual, the family and the community. If you don't want to do it because you don't believe in this, then do it because you have an obligation.

That's how I conclude all of my presentations.

[*Translation*]

**Ms. Emmanuella Lambropoulos:** Mr. Carrier, do you want to add a comment?

**Mr. Michel Carrier:** I'm not sure I understand your question about wearing too many hats and being less effective.

As Mr. Boileau said earlier, we are cheerleaders. We're the only ones. Several years ago, I recommended that the Legislative Assembly strike a committee similar to this one that would enable provincial MLAs to take part in projects designed to promote official languages and the vitality of the linguistic communities. We are here as leaders, but we have to be supported. We can play this role, but the fact remains that the political aspect must also play a role. When that will doesn't appear on the political side, perhaps we're less effective.

I have to say this troubled me. I was suffering slightly from a Jesus syndrome from time to time. When things weren't going that well, I thought it was our team's fault, but that wasn't the case. We believe in it so much. Mr. Boileau and I are so involved and so keen for it to work that we find tools and develop mechanisms. However, if we aren't supported by the people from the Legislative Assembly and Parliament or by the federal Commissioner of Official Languages, things may not move forward as fast as we would like.

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

Thank you very much, Ms. Lambropoulos.

Now will continue with Mr. Blaney.

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

Thanks to both commissioners for their highly informative testimony.

I very much appreciated the recommendations you made in the first hour, particularly those concerning the modernization of the act, governance and a department that would oversee everything.

Mr. Boileau, I liked your recommendation concerning the Treasury Board, which would coordinate all institutions in implementing the act.

I have a question. You said that you commissioners didn't want coercive powers and that a tribunal would have the effect of judicializing everything and thus reducing political accountability.

Could the Treasury Board have coercive powers and use them to implement the Official Languages Act?

• (1000)

**Mr. François Boileau:** Absolutely.

That's what we're aiming for. Regulatory powers are already provided for under the Official Languages Act. However, very few regulations have been made to implement the act. Nevertheless, if there were more regulations and they defined the consequences of failure to achieve the objectives of the Official Languages Act, it would then fall to the departments to explain their poor decisions. That would clearly indicate that it's not an outside arbitrator who ensures implementation of the act, but rather the government, which is accountable and oversees the measures taken.

If there are any complaints, they'll always go to the federal Commissioner of Official Languages. Then it won't be solely up to him and his team to verify everything that's done in government. He doesn't have the resources to do so.

**Hon. Steven Blaney:** To retain his independence and role as an advisor, he can't play the policeman either. That's what I'm understanding here this morning.

Mr. Carrier, I enjoy listening to you. You studied in Ottawa, but you've made your career in New Brunswick. Could you tell about the role of the Université de Moncton? The other day, Mr. Dupuis from the FCFA told me that educational institutions are a bit like the top of a pyramid. Can you tell me how you view the role of the Université de Moncton in the evolution of the francophonie in New Brunswick?

**Mr. Michel Carrier:** It has been vital and essential to have a francophone university for Acadians. It enabled many people to study at university in French when the only francophone universities were in Quebec or elsewhere.

The Université de Moncton, its faculty, employees and students have become leaders in the Acadian community. We see a lot of them.

Take Mr. Arseneault, for example. They aren't all winners, but well...

**Hon. Steven Blaney:** He wasn't listening, so that's all right.

**Mr. Michel Carrier:** Earlier, during the break, we talked about the role of lawyers who have gone through the law faculty at the Université de Moncton. It's invaluable, especially in the area of language rights. It's an authority. We've developed a common law language. The Université de Moncton is essential to the vitality and survival of the francophone community in New Brunswick.

**Hon. Steven Blaney:** Would you say that New Brunswick has been a social and economic winner thanks to the founding of the Université de Moncton and that it has been a plus for all the people of New Brunswick?

**Mr. Michel Carrier:** Absolutely.

**Hon. Steven Blaney:** I see Mr. Samson, who wants to talk about Nova Scotia. I don't know whether he went to the Université de Moncton.

**Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.):** I'm going to tell you about that. That's my story too.

**Hon. Steven Blaney:** You are an advisor.

If I were in the government this morning, I'd be wondering how we could continue advancing linguistic duality in Canada while avoiding repercussions. I'd like to hear what you have to say on that point. How can we continue demonstrating the constructive and positive value of duality and of the positive steps we're taking.

You mentioned populism. I'd like to hear what you have to say on that, if possible. I have a few minutes left.

**Mr. Michel Carrier:** We're all troubled by the populist movement around the world. Everyone has his or her own interpretation of what's happening. I think people in that group feel detached and not heard. They don't feel they're part of the decision-making process.

Yesterday, I was listening to an excerpt from an interview that former Prime Minister Harper gave on the subject of populism.

These people don't understand the issues of free trade and markets. They're detached, troubled and dissatisfied and therefore advocate simplistic solutions for complex issues.

Here at home, that results in the resentment of official languages, which has always existed in a small segment of the population. Now, perhaps people are a little more attentive because of this populist movement, which aims to solve everyone's problems in a simplistic manner. Official bilingualism has often been an easy target for these people. Social media provide forums where they can exchange ideas.

So if we want to approach these people, and if we want them to understand the situation more clearly, we'll have to demystify a lot of things. Myths persist. Earlier we talked about billions of dollars in spending, but you also have to talk about the benefits.

The Conference Board of Canada recently published a study stating that the contribution of bilingualism to Canada and Ontario amounts to billions of dollars.

I think one feature of a democratic system is that we continue to dialogue with people who consider these questions.

Perhaps we'll have to find better tools because this populist movement. We don't know it well. We're learning on the go. I've found that a little more difficult since I came back five years ago as a result of that movement. We can't give up if we want a society that holds together, that acknowledges the value of everyone, of the ethnic communities, the official language communities and so on. We'll have to continue talking about this. So I don't have a solution.

•(1005)

**The Chair:** Thank you very much, Mr. Blaney.

Now we go to Nova Scotia with Mr. Samson.

**Mr. Darrell Samson:** Once again, thank you very much.

First, I want to thank all four of you for being here.

Mr. Carrier, thank you for your ongoing work. Thanks to you too, Mr. Boileau. You have an even bigger national profile today, and you clearly show how important your work is. I'm going to address that in a few minutes.

Before I begin, I want to say this to my colleague opposite: the Université de Moncton hasn't just been very good for New Brunswick society.

Here's a brief historical review. When I went there, approximately 40% of New Brunswick students were from Quebec. First, that let them gain a year by not going to Cégep, and, second, they wanted to be engaged in the francophone community outside Quebec and to meet and work with Acadians from everywhere.

Personally, I did my entire education in English. There weren't any French schools where I lived when I went to school. We spoke French at home, unless an anglophone was there, and when I had to choose a profession, I had to decide whether I wanted to live in and continue contributing to francophone society. I had to find a francophone university. There was one in Nova Scotia, which is essential, and another in New Brunswick. We couldn't go to Ontario because there were no French-language universities there. There still aren't today. Life is tough.

I'm going to try to ask a few specific questions because I'm known for my long preambles. I found something extremely interesting in the two presentations you made. You addressed some very important points.

Mr. Carrier, you talked about aligning federal and provincial offices, and that's very important. There are many instances in New Brunswick in which service is offered solely in English.

Can you talk about that?

**Mr. Michel Carrier:** Thank you for your question.

It's hard to be clearer than I was in my brief. We think some confusion is created by the discrepancy between the two levels of government.

I believe that will help improve the vitality of the French language in New Brunswick.

•(1010)

**Mr. Darrell Samson:** Do you agree that the new change to the official language regulations will do much to help on this issue?

**Mr. Michel Carrier:** Yes.

**Mr. Darrell Samson:** Our federal government will support that.

Immigration is also a very important issue. Mr. Carrier, you said there had to be a linguistic balance. Mr. Boileau, you discussed the importance of implementing the regulations. I don't know whether it was you who said it, but Ontario's francophone population is increasing, even though its percentage is declining as a result of immigration. That's the crucial aspect.

Do you want to comment on that, Mr. Boileau?

**Mr. François Boileau:** Francophones currently represent 4.7% of Ontario's population. That figure will fall to 3.9% in 10 years. If we want to reverse this trend, we need two important things: an education continuum that runs from early childhood to the postsecondary level and even including adult education, and francophone immigration. Consequently, we need selection, intake, integration, training and retention strategies.

**Mr. Darrell Samson:** Thank you very much.

You really touched me earlier, and that doesn't happen to me every Thursday morning, but I was captivated by your description of the commissioner's role.

Listening to you, I thought that, if I was the head of a government, I'd like a commissioner to do all that for me: promotion, protection, convening and active offer.

As you said, you don't go into meeting rooms to force people to do any particular thing. We often don't see those problems. Perhaps 75% of difficult cases are resolved even before they become cases. If I were a party leader or prime minister, I would have you on my team. You could eliminate problems from my life. Problems associated with governance, but if you eliminated one of the major problems, the problem of our two official languages, that would be outstanding.

**Mr. François Boileau:** Last year, we submitted a study on designation to revitalize the principle of organizations designated under the French Language Services Act in Ontario. As its implementation had been delayed, we discreetly provided the Government of Ontario with a draft, as a basis on which the Office of Francophone Affairs, now the Ministry of Francophone Affairs, could rely so that we could now have more designated organizations, particularly in the Toronto area, where only three organizations are designated in whole or in part. There have been only 3 out of 230 over the past 30 years. That's not a lot.

We advised the government on how to achieve the objective of having more organizations providing French-language services and ensuring they do so on the ground.

**Mr. Darrell Samson:** I have a final question for you, Mr. Carrier, and it's very important.

You met with the premier as soon as he was elected two or three weeks ago. Imagine you, the commissioner, having a 90-minute face-to-face interview with the premier upon his election.

Tell me how your meeting with the premier went, and that with the leader of the People's Alliance?

**Mr. Michel Carrier:** The meeting with the leader of the People's Alliance is scheduled for tomorrow.

The meeting with the premier went very well. Like every politician, he made no major commitments, but I think we had a chance to speak in a frank and candid manner. On the ambulances case, the government wanted to withdraw the application for judicial review. Personally, I encouraged him to continue because the arbitrator's decision contains enormous weaknesses in its interpretation of language rights.

**Mr. Darrell Samson:** For 90 minutes, you talked about...

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

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

●(1015)

**Mr. Alupa Clarke:** Commissioners, there are two aspects to our great crusade to modernize the Official Languages Act. I think "crusade" is the right word.

First, there's the act as such, and we'll want to change a lot of words and sentences to strengthen it, regardless of the government that's in power in 2019. Second, there are more general issues, such as whether a tribunal should be established, how governance should be centralized and so on.

We've addressed these more general issues during the question period, but I'd like to hear you talk more about the act as such, about the minor details that change matters every day for the minority linguistic communities. For example, representatives from Power Law came and presented a lot of very specific recommendations, such as replacing the word "may" with the word "shall" in part VII of the act. Do you have similarly specific recommendations for amendments to the present act?

**Mr. François Boileau:** We have some specific wording in our brief, but I'm going to take this opportunity to move away from the brief.

I think it's time for a little more imagination. There's a lot of confusion between part IV, which concerns communications and services, and the objectives of part VII.

For example, there are 14 sections in our Ontario act, but nothing about active offer, and we obviously don't have an equivalent to part VII.

I took up my position on September 4, 2007, and I met all the deputy ministers together 10 days later, on September 14. I told them that the speech was still relevant today. There was the communications issue, which we hoped to resolve, and we ultimately resolved it by means of a mandatory directive on French-language communications. However, there was also the services issue. We wanted to ensure that services would be adapted to the needs of the francophone communities in certain key sectors.

When we proposed that as part of the revision of the French Language Services Act two years ago, we wondered who could help determine what those key sectors were. Well, it was Minister Mulroney's Provincial Advisory Committee on Francophone Affairs, the PACFA, that helped determine which key sectors had priority.

In other words, if the Ministry of the Environment has a used tire recycling policy, that's fine if it's in both languages and is communicated efficiently on government websites, but, if we're talking about policies that affect women victims of family violence, policies that concern children's aid societies or access to justice...

The largest number of complaints came from the national capital and were filed at the Ottawa courthouse. In accordance with one of my recommendations, we established a pilot project on access to justice in French, which has been permanent since 2015. Do you know how many complaints we've received since that project was put in place? Zero. We've received no complaints. The people of Ottawa complain a bit. I shouldn't say that, but they're quite vehement. We have to think about services to the community that must be adapted to health and other needs.

We have French-language health service planning organizations. I'm happy to talk about that for a few minutes because they play a fundamental role in determining where needs are and who are the suppliers who can provide French-language health services.

All that involves proactive work on the ground, and that's the very essence of the commissioner's role, which is to promote this emergence.

Justice, immigration and community social services are all key issues. That's where we should show some imagination and adjust and adapt the idea of serving the needs of the community. As we saw in his judgment, Judge Gascon didn't really know what to make of part VII.

**Mr. Alupa Clarke:** That's why we must change certain words. Thank you, Mr. Boileau.

Mr. Carrier, do you have any specific legislative amendments in mind?

**Mr. Michel Carrier:** No. Our brief contains suggestions that you may read a little later, but I wouldn't say they're "specific". They are suggested improvements.

**Mr. Alupa Clarke:** I see.

**Mr. Michel Carrier:** We didn't look at the matter that way.

**Mr. Alupa Clarke:** If I correctly understood, you seemed to be saying in the presentation you made earlier that you wanted to see some recognition of the special status of New Brunswick's bilingualism in the Official Languages Act. Is that correct?

●(1020)

**Mr. Michel Carrier:** Some people, some lawyers say that's not necessary.

Earlier this week, Mr. Doucet said that, if the specificity of New Brunswick were recognized, that of the other provinces would would have to be as well.

The fact remains that the Canadian Charter of Rights and Freedoms recognizes the specificity of New Brunswick. I don't think anything is lost by including it in the act.

From an operational standpoint, federal officials regularly work with the act. Why not reflect that? It's a matter of symbolism. We need that symbolism; we need it to be there and for it not to be questioned because what New Brunswick has managed to establish for itself in constitutional law is clear.

Why wouldn't that be reflected? That's another tool. We're talking about engaging the majority, dialoguing and so on. That's another message.

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

Since several people have asked to speak, this will be a round of four minutes each.

We'll begin with Mr. Choquette.

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

I'd like to go back to something you said, Mr. Boileau. You mentioned the reports and studies you've done, and you noted where the Université de l'Ontario français project came from.

You said you had worked on it. Can you explain to us the work you did in connection with the university? It almost became a reality. Some appointments were made to the board of directors and programs were already developed. So the process was in the advanced stages.

How did you see that there was a need? How did you work on it?

**Mr. François Boileau:** First, there was an obvious lack of French-language postsecondary programs in central-southwest Ontario. In addition, there is strong population growth there.

So we focused on that on our own initiative because we wanted to analyze the issue in greater depth. We therefore requested all the figures. We prepared a 78-page report, which we submitted today, on the status of postsecondary education in central-southwest Ontario.

We informed the government and officials of this obvious lack in a 2012 report entitled *The State of French-Language Postsecondary Education in Central-Southwestern Ontario: No access, no future—kind of a punchy title.*

This is the region where the population is growing and where the largest percentage of the student population is studying at the postsecondary level. Since there is a shortage of French-language postsecondary programs, students quite obviously study in English. They are trained in English and then wind up in absurd situations in which francophone nurses hesitate to speak to us in French because they haven't learned the terminology or the exact words in that language and are somewhat uncomfortable.

Since we were hearing this every week, it was time to advise the government to ensure that postsecondary education could be provided in French.

We lit a minor fire by publishing the report, but it was the community that took charge of it, more specifically organizations such as the *Assemblée de la francophonie de l'Ontario*, the AFO; the *Fédération de la jeunesse franco-ontarienne*, the FESFO; and the *Rassemblement étudiant franco-ontarien*, the REFO. They organized the *États généraux sur le postsecondaire en Ontario français*.

A dialogue was established between the community and the government. The latter conducted two studies that confirmed our investigation report and our figures. They obviously confirmed our figures because they came from the Ministry of Training, Colleges and Universities and from the Ministry of Education. That started a discussion, and the dialogue spread throughout the community. We took a step back, thinking that it was no longer our responsibility because a dialogue was going on in the community. The university was thus created.

Currently, however, the fact that it has been abandoned concerns me in my capacity as commissioner because there is still an obvious lack of French-language postsecondary education programs in the central-southwest region.

**Mr. François Choquette:** Lastly, what can the federal government do? There have been setbacks now. Let's say it clearly. There has been a setback for the Office of the French Language Services Commissioner? Has it been in existence for about 20 or 30 years?

**Mr. François Boileau:** No, it's been around for 11 years.

• (1025)

**Mr. François Choquette:** All right, 11 years.

**Mr. François Boileau:** I'm old, but not that old.

**Mr. François Choquette:** There is the setback with regard to the university, where the programs were almost ready. The setbacks also involve the federal government. As we said earlier, this linguistic crisis doesn't just affect Ontario. It goes beyond its borders.

The federal party leaders met yesterday and wondered what they could actually do to support bilingualism and the two official languages across Canada.

What role can the federal government play in Ontario's current situation? What signal can it send?

**Mr. François Boileau:** Throughout our history, the federal government has always been there when language crises occurred. It may not always have done so in the right way, although, in recent decades, it has definitely gotten involved. It did so during the language crisis in Manitoba in the late 1980s, and in other language crises across the country. The federal government made its presence felt by funding the Court Challenges Program, other activities, agreements between Canada and the community, agreements between Canada and the official languages community and the Official Languages in Education Program, OLEP.

The federal government still has a role to play. I'm not saying it should grant a specific amount of money. That's not for me to say. However, in this case, the Government of Ontario tells us it's facing a \$15 billion deficit and simply can't provide the 0.07% of the funding the Université de l'Ontario français needs to start up. It's asking the Ontario government for \$84 million over 10 years, which amounts to 0.07% of the \$6.8 billion total required to create the university.

If the federal government could take part in the debate, tell the Ontario government it will be there and ask it to discuss whether the problems are only financial, I think that would demonstrate a beautiful aspect of cooperative federalism that all Canadians would like to see.



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

Mr. Blaney, you have four minutes.

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

You've raised a very good point, Mr. Boileau, regarding the federal government's mechanisms.

I'd like to continue in the same vein as Mr. Choquette. We know there are federal programs. I was referring to the Université de Moncton. Do you know whether there are any programs under which the federal government has contributed to educational projects in Ontario?

**Mr. François Boileau:** Yes, funding is granted under the Official Languages in Education Program, OLEP. By the way, if I'm not mistaken, a renewal of OLEP is currently being negotiated.

That funding is very important, but you must understand that the provincial government is accountable in Ontario. It grants more than \$1 billion in public funding to French-language schools.

Of course, that's not just to please francophones; those children would still be in the education system. If they weren't in the francophone system, they'd have to go into the anglophone system. It's all the same, in a way. We need roofs for those schools.

The federal government nevertheless provides assistance that isn't the same as that of the other provinces. In education, Ontario receives much less money per capita than other provinces and territories.

We are currently in a crisis. Perhaps it's time the federal government asked what else it could do to ensure that, after 40 years, we can finally roll out a French-language university in Ontario. It's been created; it's there. Can we take action right now to ensure we don't continue the debate for another 5 or 10 years. That makes no sense.

The francophone community deserves better. The diversified francophone community of central-southwest Ontario also deserves better. The government also deserves better. We talk about bilingual jobs, and we talk about employees who will be trained in French, but who will learn the terminology in both languages, as they do in our colleges, whether it be Cité collégiale or Collège Boréal.

The result will be employees who provide us with health, justice and education services. That's what we need, a bilingual labour force that will truly help Ontario stay at the level where it should be.

All these billions of dollars—I'm not just talking about billions of dollars for French-language education, but also for immersion education for our francophile friends—all these investments stop before the postsecondary level. Then we hope these people that we've trained at the elementary and secondary levels will become functionally bilingual. It makes no sense not to head in that direction.

• (1030)

**Hon. Steven Blaney:** Thank you, Mr. Boileau.

I know time is passing. You had a lot to say in your presentation about active offer at the provincial level. At the federal level, we have what's called part VII, which concerns advancement. In both

cases, one would say there's a great deal of confusion and matters aren't clear.

What do you recommend we do to give meaning to the idea of active offer and the government's responsibility to promote linguistic duality?

**Mr. François Boileau:** Our brief contains six criteria that we've established and that could be implemented in regulations respecting active offer in Ontario.

**Hon. Steven Blaney:** You presented them.

**Mr. François Boileau:** Yes, we presented them earlier.

The federal government already has a clearer definition of active offer and of the circumstances in which it must occur. It could be outlined in greater detail in regulations. We also propose measures.

Moving on to part VII, as I said earlier, there is some confusion between the objectives of communication and the provision of services in part IV and the services that will be adapted to the needs of the public.

I invite you to reread the judgment of the Supreme Court of Canada in *DesRochers* a few years ago. In that decision, the court drew a distinction between part IV and part VII of the act, but, in many instances, that distinction is still not understood.

I think that a clarification and regulations for the implementation of part VII would already be of considerable assistance. We have that power. We have the power to make regulations under part VII. We have the power to do it, but regulations have never been made under part VII.

**The Chair:** Pardon me, Mr. Blaney, I must to turn the floor over to the next speaker because we have very little time left.

**Hon. Steven Blaney:** Thank you, Mr. Boileau.

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

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

Thanks to the witnesses for being here.

First, I would like to note the resilience of francophones outside Quebec. Mr. Boileau, I think your speech is part of that, as are the actions of Amanda Simard.

I also want to mention your vitality. Denise Bombardier kind of buried you during an episode of *Tout le monde en parle*. I think that triggered a new open-mindedness in Quebec. People realize that the spread of the French fact outside Quebec helps ensure the survival of the only francophone home in North America.

I think that's a new approach and that a new era has begun in Quebec. A new relationship is forming between cousins from Quebec and francophone cousins outside Quebec.

Bilingualism is the basis of our identity in Canada. I'm a new member of this committee. So you may want to correct me.

My question is for Mr. Carrier, and my second will be for you, Mr. Boileau.

Could the commissioner whose position is in jeopardy in Ontario be appointed by the federal government, which could have one commissioner per province? Those commissioners could ensure that the provinces are accountable for federal funding that is not subsequently allocated to the items for which it is intended.

Would it be possible to have one commissioner reporting to the federal government in each of the provinces? Would that be unconstitutional?

**Mr. Michel Carrier:** The federal Office of the Commissioner of Official Languages has bases across Canada. It has an office in Moncton. It's under federal jurisdiction. It's not provincial.

However, could it comment on responsibility and funding transfers? Could it examine this question and maintain dialogue with the provincial office?

The question regarding the transfer of funding under agreements was raised by other speakers. Is that funding actually spent to support the vitality of the linguistic communities? Some questions arise on that subject.

From a constitutional standpoint, there could be some interference, but we could definitely work hand in hand to ensure the federal side produces the desired results.

•(1035)

**Mr. Jean Rioux:** Thank you.

I have a more specific question for Mr. Boileau.

With regard to language rights, have any experiments that we could draw on been conducted elsewhere in the world?

**Mr. François Boileau:** Yes, absolutely.

I'll continue in the same vein. The federal government is already involved in funding certain French-language services programs in the provinces, and agreements are currently in place, but the provinces should nevertheless remain accountable. There is a provincial commissioner in Ontario, and it's much easier to deal between equals. We belong to the same big family. When another government comes to power, we have to put on kid gloves, and the situation is somewhat delicate.

In response to your question, I would say that we belong to the International Association of Language Commissioners. I was pleased to take part in a meeting on active offer issues by WebEx last year. We have that expertise, and we developed a special study, which I know was much appreciated outside the country. On the other hand, we took note of what our Welsh colleagues are doing in health. They also have major health initiatives that they told us about.

So we belong to that association, and, in June 2019, we will have the opportunity to launch a book at an international conference that's expected to be attended by 250 participants and is already organized and ready to go. We have a publisher, Éditions Yvon Blais, and we will be launching a book written by international experts, who will explain the role of a language ombudsman. Chapters of the book will focus on cases encountered by each of the members of the association.

It should not be forgotten that Ireland's Official Languages Act was based on Canada's legislation and that Kosovo's official languages act was based on Ireland's legislation. Canada has played an incredibly important role in linguistic duality around the world. We have a country in which we do not engage in trench warfare but live in relative linguistic peace. We may engage in populist debates, but we don't take up arms. Countries such as Ukraine, Macedonia and Croatia envy what they see in Canada. We are now in touch with our colleagues in New Zealand, who may become members of the International Association of Language Commissioners. Romania may also join.

However, that may all be jeopardized because we may no longer exist in June 2019. Fortunately, the Ontario Ombudsman may be prepared to get involved. We've discussed that. However, we've received no support from the federal government. Yet it will be a year of celebration, the 50th anniversary of the Official Languages Act. The door may be closed to us because our association is provincial.

It's important that you tell anyone you know who might be interested that this international conference will be held in Toronto. It will be the Year of Indigenous Languages. We have also received confirmation that a representative from the aboriginal communities in Canada and around the world will be involved in every one of the roundtables. Consequently, I think this will be an opportunity for the Canadian government to provide financial support, of course, and to attend the conference.

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

The next speaker is Paul Lefebvre from Sudbury.

**Mr. Paul Lefebvre (Sudbury, Lib.):** Thank you, Mr. Chair.

I'm from Sudbury, and I'm a graduate of the French-language common law program at the University of Ottawa.

Messrs. Carrier, Boileau, Morin and Beaulieu, thank you for being with us. I'm very pleased to see you all.

Mr. Boileau, thank you for the invitation you've just given us and for ensuring that we are aware the conference will be held in Toronto. We will be following up on that.

I'd like to talk to you about the Court Challenges Program. I was a student at the University of Ottawa during the Montfort affair, and I remember that it made it possible to take legal action concerning Montfort Hospital. The program was cancelled and then restored. Based on your experience, how important is that kind of program for official language minority communities.

•(1040)

**Mr. François Boileau:** For the sake of transparency, first, I must say that I was the first executive director when it was restored in 1994. Consequently, I'm not entirely neutral. I wanted to point that out.

The program was obviously essential in the area of language rights for our anglophone colleagues and fellow Quebecers and for our French-Canadian compatriots. The Court Challenges Program has been in existence since 1978. Since its inception, when it was an obscure program of the federal Department of Justice, it has evolved on the issue of equality rights and, since the 1990s, on language rights. It's an absolutely essential tool.

The program enables communities and individuals to achieve a degree of parity—although there will never be perfect equivalence—with all the funding invested by attorneys general to fight language rights cases. It therefore helps balance the two sides by defending the fact that they have rights. It's a unique program in the world and one that is observed around the world. It may no longer be unique—I've lost count in that regard—but it's still an extremely important tool.

**Mr. Paul Lefebvre:** I'll be getting back to you a little later.

Mr. Carrier, do you have an opinion on this?

[*English*]

**Mr. Michel Carrier:** What he said.

**Mr. Paul Lefebvre:** What he said: excellent.

[*Translation*]

**Mr. Michel Carrier:** As you know, these constitutional cases take up a lot of time and require a lot of money. However, the litigants who would like to bring these claims can't afford to do so.

**Mr. Paul Lefebvre:** I raise the question because there clearly was a time when people didn't have access to this program.

What does it mean for these people, in this country, not to have access to this funding to support their language rights claims?

Without this program, how can people who want to assert their rights plead their cases? Where can they go?

**Mr. François Boileau:** They go nowhere unless they conduct a campaign on GoFundMe, or something like that, which can also be done in addition.

This provides a base. It at least gives legitimacy to a community or a group of parents or individuals. It enables them to pay for a

lawyer who will consider the case. It's at least a start. The \$5,000 amount can be granted to determine whether there's a legal basis or some kind of basis.

If that's the case, another application is filed with the Court Challenges Program, and the expert panels—that's their job—analyze the match plans of the lawyers retained to determine whether the cases are important or new or will advance language and equality rights in Canada. I think it's fundamental. It provides a basis on which to begin a discussion. Then it's obviously possible to conduct individual funding campaigns, as was the case at the time of the Montfort Hospital affair. The Court Challenges Program didn't pay all costs in that instance. Montfort Hospital also sought support from Quebec and other governments.

**Mr. Paul Lefebvre:** I have to wrap it up because I have only a minute left.

We're going to write a report on this subject. What would you like to see in it? Have you forgotten to say anything, or is there an issue you would've liked to discuss so that it's included in our report? Mr. Carrier, Mr. Boileau, do you have anything to add? You have the last word.

**Mr. Michel Carrier:** As you can see, we like to hear ourselves talk.

No, I think we've more or less said it all. If you have any more specific questions to ask us later, you know where to find us. For the moment, and to avoid encroaching on other people's time, I have nothing to add.

• (1045)

**Mr. François Boileau:** I want to thank you very much for your invitation today. We will be at your disposal for a few more months each to answer any additional questions you may have.

**The Chair:** On behalf of everyone here, thank you very much for appearing, gentlemen, and for this extraordinary discussion. It was absolutely remarkable.

We will adjourn until next Tuesday. The meeting is adjourned.





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