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Chair

The Honourable Denis Paradis

Standing Committee on Official Languages

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• (1545)

[Translation]

The Chair (Hon. Denis Paradis (Brome—Missisquoi, Lib.)): Mr. Fraser, I want to welcome both you and your team. They were here last time, but nevertheless, you can introduce them again before starting your presentation.

The meeting will proceed as follows. In the first hour, you will present your 2015-16 annual report. In the second hour, you will discuss your special report on Air Canada. As usual, after each presentation, committee members will have the opportunity to provide comments and ask questions.

I want to remind everyone that this meeting is televised.

Go ahead, Mr. Fraser.

Mr. Graham Fraser (Commissioner of Official Languages, Office of the Commissioner of Official Languages): Thank you, Mr. Chair.

With me today are Mary Donaghy, assistant commissioner, policy and communications branch; Ghislaine Saikaley, assistant commissioner, compliance assurance branch; and Pascale Giguère, director and general counsel, legal affairs branch.

[English]

Honourable members of the committee, good afternoon.

[Translation]

I am pleased to be here today to provide an overview of my tenth and final annual report, which I tabled in Parliament on May 19.

[English]

This annual report covers a range of issues that have emerged or been dealt with over the past year. Some issues reveal the progress, or lack thereof, over the 10 years that I've been commissioner. These include immigration, equality of service, early childhood development, and the significance of bilingualism at major national events, to name a few, but two issues in particular stand out.

[Translation]

First, it is clear that there is an ongoing problem in the area of access to justice in both official languages. Canadians who seek to be heard in the official language of their choice in our courts face barriers that are sometimes impossible to overcome. Lawyers often feel they have to warn their clients that if they insist on exercising their right to be heard in their preferred official language, the legal proceedings will take longer and will cost more.

One reason for this is that the bilingual capacity of the superior court judiciary remains a challenge in a number of provinces and territories. Those who apply for judgeships and self-identify as bilingual do not have their language skills tested. Once they are on the bench, they often discover they are unable to preside over a trial in their second language.

The previous federal government resisted taking any action to implement the recommendations I made in the 2013 study on access to justice in both official languages that I produced jointly with my provincial counterparts in Ontario and New Brunswick. And so the first recommendation in my annual report calls on the current government and, in particular, the Minister of Justice, to address this matter.

[English]

The second issue is one that was raised by former senator Maria Chaput, as well as by numerous community leaders. It's now been taken up by Senator Claudette Tardif in the form of Bill S-209. For decades, federal services have been delivered in both official languages in different parts of the country where there is significant demand for services in the language of the minority.

A minority community can be thriving and growing, but if the majority grows faster, services are lost. This is simply unfair. A community's vitality should also be taken into account, not simply the rate at which the majority community is growing. Bill S-209 provides a way of addressing this injustice, as would a revision of the official languages regulations.

In three years we will mark the 50th anniversary of the act, and planning should start now to conduct a review of how part IV of the act, which deals with communications with and services to the public, is applied. The second recommendation of my annual report calls on the government to make this a priority.

[Translation]

Meanwhile, in the federal workplace in 2015-16, complaints under section 91 of the Official Languages Act about the language requirements for public service positions increased by 13% compared with the previous year. One of the reasons for this is a long-standing disagreement between the Office of the Commissioner of Official Languages and the Treasury Board Secretariat.

The Secretariat advises institutions that a-BBB linguistic profile is appropriate for most supervisory positions, while I continue to insist that CBC is the minimum level to ensure clear and effective communications with employees in regions that are designated as bilingual for language-of-work purposes.

[English]

Along with the tabling of my annual report before Parliament on May 19, I issued new report cards that rate 33 federal institutions on their compliance with the Official Languages Act. I also released a report on my role before the courts over the past decade. Yesterday, June 7, I tabled a special report to Parliament that proposes options that should be examined by the federal government to ensure that Air Canada effectively meets its official languages obligations. I will present this report to you later on today, and will answer any questions you might have at that time.

• (1550)

During the course of my 10 years in office, I've delivered 528 speeches and intervened in 23 court cases, including nine before the Supreme Court of Canada. My office has processed 7,156 complaints.

[Translation]

As I look ahead, though, one thing worries me. Sometimes I get the impression that the attitude toward language policy is “it goes without saying”. And so we do not talk about it. But we have to talk about it. For if it goes without saying, it remains unsaid—and what is unsaid is often neglected or forgotten.

In that context, I would be remiss if I did not say how pleased I am that Royal Military College Saint-Jean is to regain its status as a university. For more than two decades, Canada's armed forces have suffered from the absence of a French-language military university, and this corrects a serious problem.

[English]

This year, I will present my eighth annual award of excellence to the organization Canadian Parents for French for its outstanding contribution to the promotion of linguistic duality. I congratulate the organization for its exceptional work and for respecting French as an integral part of Canada.

[Translation]

The Canada 2017 celebrations also offer a unique opportunity to showcase linguistic duality. Numerous groups throughout the country are hard at work organizing events to mark our sesquicentennial anniversary. Linguistic duality must be a key component in all these efforts.

[English]

I commend the honourable members of this esteemed committee for their continuing efforts to promote and protect our official languages.

I thank you for your attention and would be pleased to answer any questions that you have.

[Translation]

The Chair: Thank you for your presentation, Mr. Fraser.

Since time is running short, we will start immediately with Ms. Boucher.

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): I want to say hello to Mr. Fraser and his team. It's always an honour to speak with you.

First, thank you for all your excellent work on official languages.

I have been on the committee before, and I have noticed that the same issues often come up. Not much has changed, since we are still talking about them.

I want to know one thing. It's often said that our federal institutions must take the lead in promoting bilingualism across the country.

Your report states that CBC/Radio-Canada must address some deficiencies in terms of the response time for French emails, which is twice as long as it is for English emails.

I think federal institutions should have started submitting reports to us a long time ago. I believe this issue has been discussed for a number of years.

As you suggested in your report on Air Canada, do you think penalties should be imposed to send a message to people and institutions?

Mr. Graham Fraser: Yesterday, we sent the speakers of both houses a special report to Parliament that includes a range of options for Air Canada. I will discuss the topic in more detail later, when I present the report. The report proposes a series of incentives for you to discuss. The issue is complex. A whole range of options are available, from agreements to fines.

I think I will wait until later to answer the question, when our report on Air Canada is being discussed.

• (1555)

Mrs. Sylvie Boucher: I can also see that communication problems between federal employees of institutions and individuals receiving the service are abundant.

Mr. Graham Fraser: Yes.

Mrs. Sylvie Boucher: Since 2006, the report card results have been steadily declining. Two-thirds of the institutions score between 0% and 50%.

What measure do you think should be implemented to improve services for federal employees and for recipients?

Mr. Graham Fraser: Let's go back to our evaluations of the 33 institutions. Some improved, while others experienced setbacks. Only one institution performed poorly in our view. No institution stood out, but there was a slight improvement.

Yesterday, I attended an event. An employee of a federal institution told me how much she appreciated the B rating her institution had received. She said that 10 years ago, her institution was rated E, and that it was now rated B and had worked very hard for that rating.

I again realized that public servants, official languages champions, and official languages coordinators take their responsibilities very seriously. The key is leadership. It means that someone in charge of an institution is sending the right message. That's the case at Public Works and Government Services Canada. When I started my first term, the department was performing poorly. At the time, the minister and deputy minister both considered the evaluation unacceptable. They took measures and implemented an action plan, and progress was made.

You said that you have returned to the committee after taking some time away. Your impression is that the same issues keep coming up and that things are going nowhere. My response is that the work must be ongoing. As I wrote in my annual report, the majority, almost by definition, are not aware of the needs of the minority. That's the reality. It may be unfortunate, but it must be faced. That's why, even in federal institutions, the work is still very important.

The Vice-Chair (Mr. John Nater (Perth—Wellington, CPC)): Thank you.

Mr. Samson, you have six minutes.

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

Hello, Mr. Fraser. I'm always pleased to see you and, of course, your team. We appreciate the opportunity, especially since this is likely your last official appearance as Commissioner of Official Languages. Ten years is phenomenal.

I have three very quick questions. However, before I ask the first question, I want to go back to the word "leadership", which you said earlier. I think a leader is considered good when the situation on the ground when they leave is better than when they arrived. It's easy to determine when no progress has been made. I think, in some cases, as you said, the leader in question did not adequately fulfill their duty to improve the situation.

As I now have little time remaining to ask my three short questions, I'll ask them and we'll take a quick look at all of them.

The first concerns the challenge of immigration, as you mentioned in your report.

The second concerns Bill S-209.

The third concerns the active offer of services.

Regarding immigration, you said, outside Quebec, fewer than 2% of immigrants speak French. How do you think the situation can be improved? You have one minute to respond, if that works for you.

• (1600)

Mr. Graham Fraser: The government must show determination and willingness in order to ensure that immigrants are aware of official language minority communities' existence and the assistance they can receive from host organizations on the ground.

Often, support and host organizations don't even know that there are French schools, clinic and services. People from institutions in minority communities have told me that, a year or two after their arrival, francophone immigrants would tell them that they would have liked to know that there was a French school or a clinic

providing services in French. Once their children had made friends and they had a doctor, it was unfortunately too late to change. So it's very important to tell them about the existence of those services at their point of entry.

Mr. Darrell Samson: Okay.

My second question is related to the first one.

With only 2% of francophone immigrants settling in minority communities and with more assimilation, if the same criteria are kept, Bill S-209 becomes problematic. Improvements have to be made to it.

Mr. Brison, President of the Treasury Board, came to testify before the committee a few weeks ago. He was open to the idea of changing the regulations to respond, in principle, to all the objectives of Bill S-209.

What do you think about that idea?

Mr. Graham Fraser: The important thing is that it's working. I am not opposed to the idea of changing the regulations, if that's more effective.

People from the Treasury Board are currently doing painstaking work every other census. So, every 10 years, they review each census district to determine whether the minority community is still at 5% or whether that percentage has decreased. It doesn't matter whether a bill or regulations are used to put an end to this. What does matter is using vitality criteria in the community to maintain or increase the level of services.

Mr. Darrell Samson: Thank you. I appreciate your answer. It's important to know whether an objective can be achieved through regulations.

My last question is about the active offer of service, which you mention in your report. Which shortcomings would you say could be remedied most easily?

Mr. Graham Fraser: We are currently completing a study on the active offer of service. In the meantime, I recommend that you consult the report on the active offer that was published by my Ontario counterpart, François Boileau. The report goes over the history of the active offer and compares the federal government's obligations in this area to the obligations of a few of the provinces.

Instead of simply telling ourselves that it's not done and that it's appalling, we are wondering what the barriers to the active offer in federal institutions are. I think that you will find the answers interesting.

Mr. Darrell Samson: Nova Scotia offers services in French, of course. That province has signs that say "Ici, on parle français", "Bilingue" or "Bonjour". Those signs alone lead to more than 80% of people requesting services in French. That's pretty impressive.

Would you care to comment on that?

Mr. Graham Fraser: You are absolutely right.

In François Boileau's study, I found an interesting definition of the active offer and of its importance. The active offer means that the service should be visible, audible, accessible, present and of equal quality to the service in English. Those five criteria are pretty significant.

As you said, a visual message leads to an increase in the demand for services in French. When there is no indication that the minority language can be used, people naturally tend to use the majority language, especially in minority communities where bilingual people speak the language without an accent.

• (1605)

Mr. Darrell Samson: We will have more questions in the next round. Thank you.

The Vice-Chair (Mr. John Nater): Mr. Choquette, you have six minutes.

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

[*English*]

I thank you very much, Mr. Fraser, and your team, for being here.

I also want to join you in congratulating Canadian Parents for French for the good work that they are doing. I met with them also, and I know that they are passionate about French immersion. It was really interesting to see that.

[*Translation*]

I would like to talk about justice. You know me and you know that I have a passion for access to justice in both official languages.

When the President of the Treasury Board, Scott Brison, appeared before the committee, I asked him how the review of the horizontal governance of official languages policy was coming along. He told me that he was not in charge of that file, which was the responsibility of Canadian Heritage.

What role did you play in the review of the horizontal governance of official languages policy, which began in 2014 and is ongoing, as far as I understand? What kind of participation have you had? What has been your experience? How is the review currently going? You talk a bit about governance in your report, but you do not mention that study, and I am wondering about its role.

Mr. Graham Fraser: As an officer of Parliament, I keep a certain distance between the government and myself regarding the development of this kind of a study. So I cannot talk to you about it in detail.

As for the governance issue, nine years ago, the government placed on the Treasury Board the responsibility of ensuring that federal institutions and departments are respecting official languages. In fact, the idea was to limit the number of activities centralized in the Privy Council. So there was a tendency to assign those responsibilities to the departments. I was somewhat concerned, as I worried that the importance given to the official languages issue would be reduced.

At the same time, the committee of deputy ministers on official languages, where members could not be replaced, was superseded by

a committee of assistant deputy ministers, whose members can be replaced.

So I was concerned about those two changes.

We have—

Mr. François Choquette: Commissioner, my apologies, but I have to interrupt you, as I don't have much time. I do understand what you are saying about governance.

I will immediately move on to your 2013 report on access to justice, since the first recommendation of your latest report is about that. Unfortunately, that report was shelved when it was tabled in 2013-2014. Today, the government seems to be showing openness. You are giving the government until the end of October 2016 to implement the report.

Which recommendations from that report must absolutely be put forward? Do you have good exchanges with the Department of Canadian Heritage or the Department of Justice in this file?

Mr. Graham Fraser: We do have good exchanges.

Here are the three most important recommendations: first, carry out a real assessment of needs in the provinces; second, assess the language proficiency of those who want to become judges; third, establish an agreement with chief justices in the provinces to carry out these kinds of assessments.

Ms. Giguère could tell me whether there are any other key elements I should mention. I'm always afraid of overlooking important points.

I had a discussion with the Minister of Justice and I also spoke with the deputy minister. We are in regular contact with the department on issues related to official languages. I have a strong impression that, as you say, there is some openness. The report has been taken off the shelf for an in-depth study. There is no guarantee that we will get the desired results, but I have been very reassured by that renewed interest.

• (1610)

Mr. François Choquette: You talked about the posting of supervisor positions.

If memory serves me right, you said that you had sent a letter to the Prime Minister to express your concern. Have you received a response?

Mr. Graham Fraser: There have been two different letters. I sent one letter to the Prime Minister about the governor in council's appointment, and I sent another one to the President of the Treasury Board regarding the classification of positions within the public service.

I have not received a response in either case.

The Vice-Chair (Mr. John Nater): Thank you.

Ms. Lapointe, go ahead for six minutes.

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much.

Thank you for joining us. Congratulations on the 10 years you have dedicated to official languages. Your work is greatly appreciated.

In Quebec, anglophones make up the linguistic minority. There are English-speaking minority communities in my riding. Should we apply the same principle, through the mirror effect, to anglophone communities in Quebec as part of the action plan on official languages in minority settings?

Mr. Graham Fraser: That's a pretty delicate issue.

Ms. Linda Lapointe: I agree.

Mr. Graham Fraser: That issue is a concern for the anglophone minority, in part because that minority has already suffered from asymmetry in the Constitution.

In section 23 of the charter, which concerns minority language educational rights, paragraph 23(1)(a) stipulates that anyone "whose first language learned and still understood is that of the English or French linguistic minority population" has the right to have their children receive instruction in that language. However, further on, in section 59, it is stated that paragraph 23(1)(a) shall come into force after a resolution of the National Assembly. That's an element of the Constitution. Anglophones who have not been educated in English in Canada don't have access to English schools in Quebec in the same way that francophones who settle elsewhere in Canada can have access to French schools.

Given that asymmetry, it's a matter of once bitten twice shy. On the one hand, there is considerable nervousness over the idea that there is no need to provide the anglophone minority with the same rights as those reserved for the francophone minority. On the other hand, if we broadly define what constitutes a minority community in Bill S-209, bilingual francophones may end up being considered as members of the minority community, when that is not really the case.

We sort of find ourselves between a rock and a hard place. I think that what's important is having a system that takes into account the community's real needs.

The mirror effect should in fact apply in some situations, and asymmetry may be more appropriate in others. I don't think we need to have a hard and fast rule that dictates how this should work, as the needs are so different in the country's minority communities.

• (1615)

Ms. Linda Lapointe: Thank you very much for your answer.

You said earlier that public servants in supervisor positions had to have a B level of bilingualism. I want to make sure I understand. Those who obtain an E are exempted indefinitely from further language testing. That's the highest level of proficiency, correct?

Mr. Graham Fraser: Yes.

Ms. Linda Lapointe: Someone with an A level of proficiency is not bilingual. Someone with a B level is managing. Someone with a C level is getting there. There is no D. The last level is E.

Is that right?

Mr. Graham Fraser: That is right.

Ms. Linda Lapointe: Those who want to become supervisors need a B level.

Mr. Graham Fraser: At the Treasury Board, we have a generic job description where we recommend a B level for supervisor positions, even for positions designated bilingual.

According to our experience, B level is not sufficient for managing people or conducting performance assessments.

You talked about the mirror effect. I was wondering whether there's not a difference between a francophone with a B level and an anglophone with a B level who both work in an environment where English is the language of the majority. For the anglophone, that would probably mean they passed their test, but that they do not use French. In that case, their French declines naturally after the test. However, for a francophone with a B level in the same situation, they probably speak English often, but poorly. Therefore, the mistakes become entrenched. It is difficult to pass the test even if that individual is fairly comfortable in English, since they repeat the same mistakes.

I think there is an injustice....

Ms. Linda Lapointe: I just want to close with a comment. My brother spent more than 20 years in the public service. He held an important position. He started at B level and ended up at E level. So you are correct. He then became exempted.

The Vice-Chair (Mr. John Nater): Thank you, Ms. Lapointe.

Mr. Lefebvre, you have three minutes.

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

Thank you for being here, Commissioner.

One of the statements from the document Protecting Language Rights: Overview of the Commissioner's Interventions in the Courts 2006-2016 is:

It is therefore perfectly understandable for any individuals or groups who feel that their language rights have not been upheld to turn to the courts for redress. What is not so easy to understand, however, is the number of cases relating to language rights that are still being filed nearly 35 years after adoption of the Charter, and almost 30 years after adoption of the 1988 Act.

I am a Franco-Ontarian, and I was able to get my education in French at the primary, secondary and university levels thanks to the court challenges program, which existed at the time.

Do you think that a reinstatement of the court challenges program would be relevant today?

• (1620)

Mr. Graham Fraser: Definitely.

One of the things I am proud of is having investigated the complaints we received about the abolition of the court challenges program at the very beginning of my term. Our investigation report was the only document before the courts when the FCFA instituted legal action. We were able to participate in an out-of-court settlement that led to the creation of the language rights support program.

We want the reinstatement of the court challenges program to lead to the broadening of the definition, so as to cover court cases related to our legislation, and not only constitutional cases.

Mr. Paul Lefebvre: Great.

In addition, you wrote that only a very small proportion of the legal proceedings instituted over the past quarter of a century, including under the court challenges program, had led to the adoption of legislation intended to clarify federal institutions' language obligations or to the development of guidelines for implementing decisions.

Could you give us examples of bills you promote or could suggest?

Mr. Graham Fraser: I'm a bit out of ideas. I will ask Pascale whether there are any examples of bills. She is telling me that there aren't. We will certainly talk about this in more detail.

There are four bills related to Air Canada that died on the Order Paper, but that does not concern the language rights support program.

Another element I mentioned in this report disappointed me a bit. I am talking about the number of times official language minority communities have instituted legal proceedings against a province or a territory and found that the Department of Justice was not on their side. I don't know whether we need a government decision, regulations or a bill, but I think it's unfortunate for the federal government to intervene in order to oppose the claims of official language minority communities.

The Vice-Chair (Mr. John Nater): Thank you.

Mr. G n reux, you have three minutes.

Mr. Bernard G n reux (Montmagny—L'Islet—Kamouraska—Rivi re-du-Loup, CPC): Thank you, Mr. Chair.

Mr. Fraser, on page 2 of your presentation, you mention the number of court cases in which you have intervened and the number of complaints your office has processed. This is the 18th time you have appeared before the committee. At the end of the paragraph, you noted:

Sometimes I get the impression that the attitude toward language policy is "it goes without saying."

"It goes without saying" means that it is understood and that we don't need to talk about it any more. You have been the Commissioner for 10 years and have experienced many things over those years. You said you are worried that people think we no longer have to talk about the French fact, since it is a given. I would like to know, are you referring to parliamentarians or to Canadians?

This is a good opportunity to express your concerns as I am giving you the rest of my speaking time.

Mr. Graham Fraser: In a sense, I am led to believe this by what ministers and the Prime Minister have said. Since the new government has been in office, I have wondered whether this might not be an issue for the Prime Minister and for some of his ministers since they are perfectly bilingual.

Mr. Bernard G n reux: That's right.

Mr. Graham Fraser: To them, it is inherent, it is a reflex. They don't think about it since they have been bilingual since early childhood. They don't need personal discipline to think about it, unlike someone who has learned another language as an adult and must discipline themselves to think about it and to always be aware of it.

●(1625)

Mr. Bernard G n reux: Like Mr. Boissonnault.

Mr. Graham Fraser: I mentioned that in my presentation to diplomatically point out that even ministers and members who are perfectly bilingual need to take the matter seriously.

The Vice-Chair (Mr. John Nater): Thank you.

Mr. Vandal, you have three minutes.

Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.): First of all, I would like to congratulate you on your fine work over the last 10 years.

No doubt you have travelled from coast to coast. I am from Saint-Boniface, a francophone minority community that you are probably somewhat aware of.

Mr. Graham Fraser: Yes.

Mr. Dan Vandal: What key factor would ensure the vitality of francophone minority communities? What are the priorities for the next five years?

Mr. Graham Fraser: I would say there are a number of challenges.

Immigration is one of those challenges. When I say immigration, I often cite the example of Manitoba, where there is close cooperation between Immigration, Refugees and Citizenship Canada, the province, and the Soci t  franco-manitobaine. With the creation of the organization Accueil francophone, we have seen very good results in receiving and assisting francophone immigrants and refugees. The Universit  de Saint-Boniface played an important role, as did the other organizations I mentioned.

I have discussed this with the minister. He is very much aware of the importance of immigration for minority communities.

Social media and technology are another challenge. We are in a transition now. The old communication technologies are becoming outdated. We are entering a new era of communication technologies.

In the letter I have prepared for my successor, which I included in my annual report, I referred to the distinction between a linguistic network and a linguistic space. It is very important for communities to have access to spaces where language is visible, audible and used. The networks are also important, but they benefit individuals. Being able to use French to submit a passport or pension application, to reserve airline tickets, or to get a boarding pass at the airport counter is great for individuals, but it doesn't do much for the community.

I think the challenge is the following. First of all, how can we ensure that minority community institutions have access to the new technologies in order to make this transition while at the same time supporting the community? Equally, how can we use these technologies to support the community and not just individuals?

The Vice-Chair (Mr. John Nater): Thank you, Mr. Fraser.

We will suspend the meeting for a few minutes. After the break, we will begin our consideration of the special report on Air Canada.

•(1625) _____ (Pause) _____

•(1635)

The Chair: Dear friends, we will now resume the meeting. The Commissioner of Official Languages is still with us. He can tell us about his special report to Parliament on Air Canada's compliance with the Official Languages Act.

First of all, I would like to congratulate you on this report, Mr. Commissioner.

We are listening, Mr. Commissioner.

Mr. Graham Fraser: Thank you, Mr. Chair.

[*English*]

Yesterday morning I submitted my special report, “Air Canada: On the road to increased compliance through an effective enforcement regime”, to the offices of the Speakers of the Houses of Commons and the Senate. The report describes the means used by me and my predecessors to ensure that Air Canada fully complies with its language obligations under the Official Languages Act.

[*Translation*]

It also contains options for Parliament to modernize the enforcement scheme for Air Canada. I reiterate that certain legal voids must be filled that have persisted since Air Canada was restructured in 2003-2004.

Finally, the report contains a single recommendation to Parliament, that this report be referred to one of the two standing committees on official languages for study.

[*English*]

Created by Parliament in 1937, Air Canada has always been a symbol of Canadian identity because it was built with public funds and because it has Canada in its name and the maple leaf on its logo.

Air Canada has been subject to the entire Official Languages Act for nearly 50 years, first as a crown corporation under the 1969 Official Languages Act and then under section 10 of the Air Canada Public Participation Act after the airline was privatized in 1988.

[*Translation*]

Since its privatization, Air Canada has gone through many financial and commercial transformations. However, as a national airline that was built with public funds, Air Canada must reflect the bilingual nature of the country and continue to meet its official languages obligations.

After 10 years as Commissioner, I believe it is important to provide an overview to Parliament of the ongoing problem regarding Air Canada's compliance with the Official Languages Act.

[*English*]

Of all the institutions subject to the act, Air Canada is, and has always been, among those that generate the largest number of complaints processed every year by the Office of the Commissioner of Official Languages. With respect to the public, a number of investigations showed that in-flight and ground services are not always of equal quality in both official languages at all points of service and on all bilingual routes.

[*Translation*]

Despite the passing years and repeated interventions by successive commissioners of official languages, the situation has not changed much. Some of those infractions involve routes where providing bilingual services would seem to be obvious, like Montreal-Bathurst or Toronto-Quebec City.

After hundreds of investigations and recommendations, after an in-depth audit and after two court cases—including one that went to the Supreme Court of Canada—the fact remains that my numerous interventions, like those of my predecessors, have not produced the desired results.

[*English*]

From 2005 to 2011, four successive bills were introduced to resolve the application issues caused by Air Canada's restructuring in 2003-04. Unfortunately, all of them died on the Order Paper.

[*Translation*]

This is only the second time in the history of the Office of the Commissioner of Official Languages that a commissioner has submitted a special report to Parliament. I believe that this issue is important enough to be considered independently of my annual report, and I wanted to provide parliamentarians with a full account of our persistent efforts over many years. This is not a single-year issue. I also had many other matters to address in my annual report, including two important recommendations to government.

[*English*]

I think it is now no longer enough to make recommendations following investigations or audits, nor is it enough to report on Air Canada's compliance in annual reports to Parliament. This special report is the last tool I have at my disposal, which is why I submitted it to Parliament today. It's now up to Parliament to make the necessary legislative changes. The status quo is not working.

•(1640)

[*Translation*]

I therefore recommend that Parliament refer this special report for study on a priority basis to one of the two standing committees on official languages. In the report, I propose different options to modernize the enforcement scheme for Air Canada in order to help guide official languages parliamentary committees in their examination of this report.

In particular, the Air Canada Public Participation Act must be amended in order to uphold the language rights of the travelling public and Air Canada employees in the airline's current structure, and enforcement of the Official Languages Act must be strengthened in order to improve Air Canada's compliance.

[*English*]

Air Canada says that its obligations under the Official Languages Act put it at a disadvantage compared to its competitors. Air Canada believes that the solution is to make the act applicable to all airlines.

In my view, a better indicator of success would be a more effective enforcement scheme for the act that is better adapted to Air Canada's reality. However, despite our disagreements, Air Canada and I are in agreement on one thing: the government should act.

[Translation]

As I near the end of my time in office, I think it is important to bring this issue to Parliament's attention and to propose possible solutions. It is now up to parliamentarians to address the issue.

This special report clearly demonstrates that despite the interventions of the commissioners of official languages since 1969, the problems persist.

[English]

Therefore, I ask that the government make this a high priority in order to protect the language rights of the travelling public and Air Canada employees.

[Translation]

Thank you.

[English]

I would be happy to answer any questions you may have.

[Translation]

The Chair: Thank you very much for your presentation, Mr. Commissioner.

We will now go to a first round of questions and answers.

You have the floor, Mr. Généreux.

Mr. Bernard Généreux: Thank you, Mr. Chair.

Mr. Commissioner, with respect to Air Canada, you recommend that one of Parliament's two official languages committees conduct another study. Yet there have been countless studies on Air Canada in the last 45 or 50 years.

Wouldn't it be wiser to take action right away rather than study the matter once again? Wouldn't the best decision be for the committee to adopt a motion calling on the government to act immediately?

Mr. Graham Fraser: Let's say there is a bill. It would have to be debated in committee. If you choose among the options I have proposed, the committee will have to discuss that.

I am not asking for a study. The committee should make decisions. I was very pleased to see the Minister of Canadian Heritage and the Minister of Transport express their interest in this reviewing this study. The minister even said that she would like to do so in collaboration with the committee.

I think the issues are complex enough to warrant at least a discussion of a bill. Four bills on the subject have died on the Order Paper. The situation has evolved since the first bill. Stéphane Dion introduced a bill in the last Parliament, but it also died on the Order Paper. There is certainly matter for discussion.

●(1645)

Mr. Bernard Généreux: Mr. Dion is now part of the government.

Were the most recent proposals in his bill effective and appropriate?

Mr. Graham Fraser: Yes, I think so. I think it was a response to a problem he had seen. As a former minister, he thought that the Supreme Court's interpretation was not consistent with the government's intentions when it voted for the Montreal Convention. The

government never thought that the Montreal Convention would take precedence over the Official Languages Act. His bill was therefore intended to ensure that the Official Languages Act would take precedence over the Montreal Convention.

We had indicated our position on this. We maintained that, as a quasi-constitutional law, it already took precedence, but a majority of the Supreme Court held the opposite. It said that the Montreal Convention, as an international agreement, took precedence.

His bill was a response to that decision, and that response was consistent with the position we argued before the Supreme Court.

Mr. Bernard Généreux: A bit earlier, when we were discussing your general report, I asked you about your concern that the French fact seemed to be taken for granted. Do you think Air Canada sees it as a given, that is has been resolved and that we don't need to talk about it any more? How do you think Air Canada views something that is not only its obligation but its daily reality? Let's be clear: I read that they have 40 million passengers per year, or was it 20 million, I'm not sure.

Mr. Graham Fraser: It's 42 million, according to the—

Mr. Bernard Généreux: You are talking about 42 million and the company has received about 50 complaints. I would ask you very naively if you think that is a very good record or a very poor one?

Mr. Graham Fraser: I'm always hesitant to use the number of complaints as the sole performance indicator.

There is something else that struck me. In 2010, we conducted an audit of the services Air Canada offered to travellers in both official languages. In 2015, we followed up on the recommendations made further to that audit and found that just one of our twelve recommendations had been implemented.

I can't speak for Air Canada, but I can tell you what I observed.

First of all, a considerable investment and a real effort were made to provide in-flight services in both official languages on all Air Canada flights to Vancouver during the Olympic Games, regardless of travellers' departure point. I had hoped this investment and effort would greatly improve service. Our audit showed, however, that employees thought this rule applied during the Olympic Games only and that they didn't have to apply it after the Olympic Games. When I raised this with the board of directors, they told me that they had never said that. Yet this was the message that employees understood. I think this points to a lack of communication.

Sometimes those requesting service in French are greeted with disdain, contempt or a lack of respect, and it is often this lack of respect that triggers a complaint. Most people will shrug their shoulders and say, that's the way it is, and nothing will change. When they are unfairly treated though, they react.

The Air Canada communiqué refers to a survey showing that 94% of customers surveyed were satisfied with the level of bilingual services. As I said, I am hesitant to rely on percentages. Air Canada did however want to use these percentages. Of a total of 42 million passengers, 6% means that 2.5 million passengers were not satisfied. It does not indicate whether francophones or bilingual passengers were surveyed. It does not say. According to Air Canada's own figures, a considerable number of passengers are not satisfied with the level of bilingualism.

• (1650)

The Chair: Mr. Commissioner, with your permission, we will move on to the next question.

Ms. Lapointe, you have the floor.

Ms. Linda Lapointe: Thank you very much for your explanations. Based on what you said about the Olympic Games, Air Canada must have been happy that Quebec would not be hosting the Winter Olympics. People at Air Canada must have secretly been delighted.

Some hon. members: Oh, oh!

Ms. Linda Lapointe: What offends me is that the headquarters is in Montreal, a bilingual city. It is primarily in Quebec that French is spoken. I am shocked that, since 1969, the recommendations that you and your predecessors have made have not been taken more seriously. You said earlier that, in 2014-2015, you found that only one of your twelve recommendations had been taken seriously. That is really disappointing.

I am a client of Air Canada and I make a point of being served in French, but I always leave from Montreal so it is not a problem.

Other than a slap on the wrists, what are the consequences of not considering the French fact?

Mr. Graham Fraser: We have in fact used a number of tools.

Ms. Linda Lapointe: There are no fines. Usually people understand that they will be fined \$5,000 for a first infraction, and then the fine increases to \$10,000, \$15,000 and \$20,000. When the fine gets to \$100,000, shareholders start talking.

Mr. Graham Fraser: Yes, the possibility of imposing fines is one of the options we put forward in this report.

Ms. Linda Lapointe: There must be consequences. When you don't follow the rules in life, there are consequences.

Mr. Graham Fraser: There is a range of possibilities, including fines. We also suggested agreements between the Commissioner's office and Air Canada. An agreement would protect Air Canada from legal action for a certain period. If the agreement were not respected, however, legal action could be taken. So there is a range of options that we have put forward for your consideration. They all have their pros and cons.

Ms. Linda Lapointe: Since there are two official languages in Canada, do you suggest that the Official Languages Act apply to all Canadian airline companies, or to all of those who do business in Canada?

Mr. Graham Fraser: Air Canada actually submitted that suggestion. They went to the trouble of preparing practically a draft bill. If you think that we should impose language obligations on all

of the airlines, you are free to suggest it. Personally, I have hesitated to make that recommendation. I felt that if it was difficult for Air Canada to comply with the act, it would be even harder for other carriers.

The fact that Air Canada head offices are in Montreal is already an advantage. There is already a well-defined clientele in Quebec. VIA Rail, another carrier that has language obligations, has really acted to see to it that the active offer or capacity to serve clients in both official languages is a value in their enterprise. I think extending the application of the act would pose certain problems.

Air Canada claims to have made progress. That is true if you compare the number of complaints made 20 years ago with the number at this time. However, it is unfortunate to note that rather than taking our audit and complaints as a tool to improve performance, Air Canada has been rather resistant to the idea that this is a systemic problem. The employees we deal with cooperate with us. We obtain a lot of cooperation from them, but we can guess Air Canada's position from the tone of their lawyer's reply, which we included in our report.

• (1655)

Ms. Linda Lapointe: Thank you very much.

I hope that we can hold bilingual Olympic games in a few years in Quebec. Perhaps then, Air Canada will have gotten into line and will be offering bilingual service.

The Chair: Thank you, Ms. Lapointe.

I now yield the floor to Mr. Choquette.

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

Mr. Fraser, I really must congratulate you on the Air Canada report. Not only have you produced an extremely well-developed report, but you also propose concrete solutions for legislators. Thank you very much for that report, which is really very well written.

In your statement to the media you mentioned that your work could be compared to "trying to run up the down escalator": if you stop for a minute, you lose ground and start to come back down. The same goes for Air Canada.

I like the fact that you don't compare Air Canada to other airline companies but rather to VIA Rail, another crown corporation that has been privatized. However, that company manages very well in complying with the Official Languages Act.

In the beginning of your special report, there is a quote from former commissioner Keith Spicer: "There is hardly a technical or administrative problem in language reform that Air Canada could not solve if its attitude were different." That was in 1976.

The committee is trying to get the president of Air Canada to appear next Monday. He does not seem to want to appear before parliamentarians. What is your reaction to that?

Mr. Graham Fraser: As to the position of the president who may not want to appear, I think you have the power to oblige the people your work concerns to appear. I think you can use that power to ensure that they come here.

Mr. François Choquette: Thank you very much.

I want to clarify one thing. Others have mentioned that the time for studies has passed and that it is now time to act. That is absolutely true. Your report does not recommend a long study on the situation at Air Canada, but rather a study on all of the recommendations. Indeed, we can implement several of your recommendations.

You did mention Stéphane Dion's bill, but it only dealt with one dimension of the problem, international flights.

Mr. Graham Fraser: Correct.

Mr. François Choquette: That said, it remains very important.

Mr. Graham Fraser: Yes.

Mr. François Choquette: I'd like to go back to your first recommendation, about binding agreements. Why is that so important? I am not only thinking of VIA Rail but also about many other situations. The FCFA, for instance, recommended that the commissioner have more powers, in order to ensure the best implementation of your recommendations.

Can you give us more details on that?

Mr. Graham Fraser: I am going to ask Ms. Pascale Giguère to provide more details on the binding agreements; she is the expert in this area.

As for requesting greater powers, that question has often been put to me. I always answered that I wanted to use the tools in the existing act before triggering a discussion on new powers. I also wanted to set the scene for the person who will succeed me. I think that with the arrival of a new commissioner, the time is right to talk about it.

Ms. Giguère, could you please explain the binding agreements?

• (1700)

Ms. Pascale Giguère (Director and General Counsel, Legal Affairs Branch, Office of the Commissioner of Official Languages): When we do an audit on Air Canada, the commissioner recommends that it take certain measures. In the context of our audits, Air Canada may also table action plans wherein it commits to adopting certain measures.

As the name indicates, a binding agreement is an agreement where the organization concerned is obliged to produce the agreed-upon results. With a binding agreement, the institution would agree to take certain steps. If it did not fulfil its commitments, amendments could include consequences. They would probably be that the court could issue an order forcing the institution to meet the commitments it made in the binding agreement.

Mr. François Choquette: Thank you very much.

Unless I am mistaken, Mr. Fraser, you made your last recommendations to Air Canada in 2010. Correct me if I am wrong.

Mr. Graham Fraser: We did do an audit in 2010, that's true.

Mr. François Choquette: I think there were 11 recommendations.

Mr. Graham Fraser: There were 12, but we were not satisfied with the implementation of 11 of the recommendations. We were only satisfied with one of the 12 recommendations.

Mr. François Choquette: Which explains why you intervened so often.

Mr. Graham Fraser: Yes.

Mr. François Choquette: It was because only one of their responses was satisfactory.

Mr. Graham Fraser: Yes.

Mr. François Choquette: That is why you suggested binding agreements, among other things. You would like the position to have more teeth in situations where we seem to be faced with an organization that does not want to comply with the act.

After the binding agreements, you suggest option B, legal damages. Could you explain to us what the consequences of that option would be for the committee and for the legislators?

Mr. Graham Fraser: Once again, I am going to ask Ms. Giguère to explain the details of those options.

Ms. Pascale Giguère: Currently, when a complainant goes to the Federal Court of Canada, the court of course has the power to award damages, but the complainant must prove that he sustained harm due to the violation of his language rights.

It is quite a rigorous exercise, one that may discourage a certain number of people. There is a mechanism in the law pursuant to which certain violations automatically cause damages to be awarded. A range would be determined. Certain violations would be punished, taking into account a range of financial penalties. The complainant would not have to prove injury following a violation of his language rights. As soon as the breach was demonstrated, the court could award damages.

So that would be a more powerful mechanism than what is currently in the law.

The Chair: Thank you very much.

Mr. Arseneault, you have the floor.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): My question is for Mr. Fraser or Ms. Giguère, who is a lawyer.

Since I don't have much time, could you summarize in one minute what was debated before the Supreme Court, and the court's ruling?

Mr. Graham Fraser: The case that went before the Supreme Court was about service to a Canadian passenger during an international flight. The trial court decided that the complainant should be awarded a certain amount. The Appeal Court quashed that decision.

The Montreal Convention is an international agreement on the amounts awarded to people who sue airlines, and it limits the possibility of court appeals regarding international flights. The Supreme Court ruled that that convention—and Canada is a signatory—had precedence over the Official Languages Act.

There was a minority ruling according to which, since the Official Languages Act is a quasi-constitutional piece of legislation, Canadians should not lose their language rights when they take an international flight. You will understand that that is also our position. However, the majority of Supreme Court justices did not side with our position, but with Air Canada, and stipulated that the Montreal Convention had precedence.

Ms. Giguère, would you like to correct what I've just said?

• (1705)

Ms. Pascale Giguère: No, there is nothing to correct. What the commissioner said is exactly right. I can, however, add that it was the first time in the history of Canada that a decision had to be made as to whether the Montreal Convention or a quasi-constitutional act would have precedence.

It is the first time that the Supreme Court addressed the Montreal Convention, but it had twice before dealt with the previous convention, the Warsaw Convention. The Supreme Court relied a great deal on the decisions of all kinds of foreign courts, such as the United States Supreme Court, which had studied the application of the Montreal Convention in the context of their legal system. However, no decision had ever involved a quasi-constitutional act such as the one at issue. There was a type of legal void.

Mr. René Arseneault: Fine.

So, the Montreal Convention has precedence over the Official Languages Act. In that case, was it an international flight or a domestic flight?

Ms. Pascale Giguère: It was an international flight.

Mr. René Arseneault: I did not read that decision, but I am going to do so later.

According to the arguments, the Montreal Convention does not apply to domestic flights.

Ms. Pascale Giguère: That is correct.

Mr. René Arseneault: Fine.

I don't want to ask the same questions as Mr. Choquette and Mr. Généreux.

In 2009, Air Canada had 10 million passengers; in 2015, there were 42 million and only 52 complaints. If the president of Air Canada were before me right now—and I hope he will be able to come to the committee very soon—what could I reply to that argument?

Mr. Graham Fraser: According—

Mr. René Arseneault: There were 52 complaints for 42 million travellers. How could I insist, given that, that Air Canada respect my rights?

Mr. Graham Fraser: According to the figures the company uses in its communiqués, 6% of travellers were dissatisfied. That survey does not tell us how many francophones were polled. However, out of 42 million passengers, a 6% rate represents a critical mass of 2.5 million passengers who were not satisfied with their service.

I would ask questions. Why were the recommendations that followed the audit not implemented, even years later? How is it that the airport does not provide active offer? How is it that there isn't a

business culture that ensures that the policies that are well accepted by management are also well communicated to employees who provide services directly to passengers?

As members of Parliament who travel, you can refer to your own experiences on the nature of the service. On the one hand, there are Air Canada employees who provide an exemplary service and are clearly proud to do so. On the other hand, certain employees absolutely do not know how to call on a bilingual colleague in another part of the plane to answer a service request that is made in French. Not only does there seem to be a legal void, but also a communication void, a gap between policies that seem appropriate, and their implementation.

• (1710)

The Chair: Thank you, Commissioner.

Mr. Lefebvre, you have the floor.

Mr. Paul Lefebvre: Thank you, Mr. Chair.

You said that it is only the second time in the history of the Office of the Commissioner that a Commissioner of Official Languages tables a special report in Parliament. Of course, your report says that over the past 45 years all of the commissioners who have studied the Air Canada dossier have repeated themselves, and repeated, and repeated. You are not telling Parliament anything new. The same things applied 45 years ago.

Mr. Graham Fraser: You mean I'm a doty broken record?

Mr. Paul Lefebvre: You're a broken record, but you are bringing the issue to the fore once more and demonstrating that it's still an issue, 45 years later.

You spoke of amending the Air Canada Public Participation Act; section 10 is about official languages. What are your suggestions to amend that act? Should we impose consequences or fines, or obtain legal damages? You also suggest binding agreements. Do you think that amendment should be made to that part of the act?

Mr. Graham Fraser: That's one point, but another one is even more important: we have to remember that after Air Canada's restructuring in 2003-2004, four bills that involved Air Canada as a whole died on the Order Paper.

For instance, Jazz is not subject to the act, but given Air Canada's connection to Jazz, and because Jazz is like a third party for Air Canada in some areas of the country, Air Canada has the responsibility of seeing to it that Jazz respects its own language obligations.

Often, when enterprises have been restructured, employees have lost their right to work in French.

Mr. Paul Lefebvre: So we want to make sure that pursuant to the Air Canada Public Participation Act, Air Canada's subsidiary companies will also respect linguistic acts. That would be one amendment we could make.

I want to go back to Via Rail in order to understand properly. Is VIA Rail subject to the Official Languages Act?

Mr. Graham Fraser: Yes.

Mr. Paul Lefebvre: So it is completely subject to the law. Would it be fair to say that that is less of a problem for VIA Rail than for Air Canada?

Mr. Graham Fraser: I am asking myself that question.

Mr. Paul Lefebvre: Which mechanisms put in place by VIA Rail could Air Canada also use? How could we apply VIA Rail's best practices to Air Canada?

Mr. Graham Fraser: You would have to put the question to VIA Rail.

Recently I had an informal conversation with someone who spent part of her career as a lawyer at VIA Rail. I paid her a compliment and said that we very rarely receive complaints, despite the many passengers, and that that was an exemplary performance. She replied that people at VIA Rail work very hard on that.

Mr. Paul Lefebvre: So it is a priority for that company.

Mr. Graham Fraser: Yes.

Mr. Paul Lefebvre: VIA Rail is quasi-independent since it has no competition. It could do whatever it likes. However, Air Canada has competition. So that is a little bit different, in that respect.

Mr. Graham Fraser: Yes.

Mr. Paul Lefebvre: Did I have three minutes, or six minutes?

The Chair: Six minutes.

Mr. Paul Lefebvre: Okay. I'm going to yield the floor to my friend.

The Chair: Mr. Samson, do you have anything to add?

Mr. Darrell Samson: Yes, if he will allow me. Thank you very much. There are many good colleagues on the Hill.

Mr. Paul Lefebvre: So long as we share.

Mr. Darrell Samson: I have a few questions.

In your report, you talk about a legal void following the restructuring of Air Canada. Could you tell us a bit more?

Mr. Graham Fraser: I will try.

Some of the features of Air Canada's new structure allow it to get around the law. That is how I understand things.

Ms. Giguère, perhaps you could provide further details.

• (1715)

Ms. Pascale Giguère: Yes.

In 2003-2004, Air Canada's structure changed considerably. Certain services that were provided by Air Canada, such as several domestic flights, were then provided by other carriers like Jazz. A lot of bases in various parts of the country were closed and are now operated by Jazz. Consequently, a certain number of employees went from Air Canada to Jazz. Pilots, baggage handlers or employees in these locations had language of work rights, which they lost because of the restructuring. The restructuring caused a legal void which we should have filled by making amendments so that these linguistic rights be kept in Air Canada's new structure.

It's the same thing for travellers. Before they had language rights by virtue of Air Canada's structure, but they lost them once the company was divided up. In 2005, following the restructuring, the

government had committed to maintaining the language rights of both travellers and Air Canada employees.

Mr. Darrell Samson: So—

Mr. Graham Fraser: Because of a structural change to the organization made at a much higher level, employees doing the same job at the same place under the same supervisor lost their right to work in French overnight.

Mr. Darrell Samson: Exactly, and that goes back to the issue of leadership and attitude.

Mr. Graham Fraser: Yes.

Mr. Darrell Samson: I think it should be understood that the rules of the game have not changed when it comes to official languages. Imagine I was a plumber who had just landed a big job and I subcontracted part of the plumbing work to another company that didn't have to have the same permits or play by the same rules. That wouldn't fly. They would all be in jail.

The Chair: Thank you, Mr. Samson.

Mr. Graham Fraser: I'm going to steal that analogy for future use. I think it's an excellent example.

Mr. Darrell Samson: My father was a plumber, and so is my brother. The plumbing analogy comes easily to me.

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

Mr. Darrell Samson: Could I ask one more question?

The Chair: We may come back to you for a few minutes later, but right now, we're moving on to Ms. Boucher.

Mrs. Sylvie Boucher: Good afternoon, Mr. Fraser.

I still find the situation at Air Canada shocking. Earlier, I told you that I returned to the House as an MP after four and a half years away, but it feels as though nothing has changed, especially in Air Canada's case. Ever since I've been on the Standing Committee on Official Languages, all we've heard about is Air Canada.

Mr. Samson, you're my new Yvon Godin, advocate for the French language.

Some hon. members: Ha, ha!

Mrs. Sylvie Boucher: I had to tell you. It's a compliment; Mr. Godin stood up staunchly for the language and his ideas.

Mr. Fraser, I'm going to share a little anecdote with you. Two weeks ago, I travelled to Vancouver for our convention. We flew from Montreal. The flight attendants on the plane spoke only English. One of my colleagues was telling me today that he asked one of them for a glass of water, only to be told, "I'm sorry, I don't understand." That was on a flight from Montreal to Vancouver. On the way back, the situation was the exact opposite. The flight attendants on the plane from Vancouver to Ottawa spoke three languages. The flight attendant looking after my section spoke three languages.

What needs to be done to fix the problem at Air Canada? Should we change our attitude towards the air carrier and take a more proactive approach? What do you recommend we do?

Government after government, we've seen motions put forward, bills introduced, reports submitted by you, yourself—countless steps have been taken. The sense is that, whenever we talk to Air Canada about official languages, the company feels attacked. What do you think would be the best way to work proactively with the air carrier so that it finally gets the message? Enough is enough; this has been going on for 45 years. It's high time we do something to fix the problem.

Should Air Canada be forced to pay fines? Must the government and all of Parliament impose conditions on the company and order it to comply?

• (1720)

Mr. Graham Fraser: Actually, I'm throwing the ball back in your court. I see that, in fulfilling your duties as MPs, you travel a great deal. So you're in a position to see the situation first-hand.

Sometimes, the impact can be felt on the planning end. For instance, I attended the Canada Games in Prince George last year. Obviously, the scheduled flight from Vancouver to Prince George is not designated as a bilingual flight, since not enough francophone passengers take the flight to warrant the airline providing French-language service on board. But the people at the airline realized that a significant number of francophones would be flying to Prince George for the Canada Games, so they took steps to ensure that flights from Vancouver to Prince George had bilingual flight attendants on board.

That example, as well as that of the Olympic Games, is evidence of the fact that strategic planning leads to success. Otherwise, the planning has failed, in my view, especially when we are talking about flights from Montreal to Quebec City, Toronto to Quebec City, or Montreal to Bathurst.

The first thing I would look at is whether any strategic planning was done to make sure flights had enough bilingual flight attendants on board. Another consideration would be the training available to unilingual flight attendants. The fact of the matter is you don't need to have studied at the Sorbonne to know what “*verre d'eau*” means. What's more, the flight attendant should realize that the person is asking to be served in French and should know what to do—such as ask a co-worker to step in—given that they can't communicate with the passenger, themselves.

Passengers have complained that unilingual flight attendants had absolutely no idea how to deal with someone asking to be served in French. No institution subject to the Official Languages Act has ever been required to make sure its entire workforce was bilingual. What matters, though, is that the institution has a system in place to make the service available and enough staff who can step in to assist when employees aren't able to provide that service, themselves.

The Chair: Thank you very much.

It is now over to Mr. Samson for one last question.

Mr. Darrell Samson: In a nutshell, it always boils down to leadership.

If you'd like to ask one last question in my place, Mr. Arseneault, go ahead.

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

I have a bit of a naïve question, legally speaking. I imagine that the Official Languages Act doesn't give you the authority to sue an institution for breach of contract, but I'm going to ask the question anyway.

We all know that Air Canada started out as a crown corporation that became a public corporation. That's the only reason why the company is subject to the obligations set out in the Official Languages Act, unlike Canada's other airlines, which aren't subject to the act because they have always been private companies.

Have you considered the possibility of suing Air Canada for breach of contract or agreement? Do you have that option?

Mr. Graham Fraser: I'm not a lawyer, so I couldn't tell you the difference between legal action for non-compliance with the Official Languages Act and legal action for breach of contract.

But, as you can see, the report lists all of the legal actions that my predecessors and I have taken further to non-compliance with the Official Languages Act.

As to your question, I don't know whether the breach of contract argument would be an option.

• (1725)

Mr. René Arseneault: I may not have made myself clear. I understand what you're saying: your arguments always relied on the Official Languages Act.

Air Canada was made subject to the Official Languages Act in exchange for the ability to privatize.

Ms. Pascale Giguère: If the contract was between the government and Air Canada—since the government was clearly the one that brought Air Canada under the enabling statute—then, unfortunately, the commissioner's office wouldn't have the authority to sue for breach of contract.

The Chair: Thank you, Mr. Arseneault.

That concludes our time with you, Commissioner. I want to extend my sincerest congratulations for your courage and your vision in coming up with solutions. On behalf of the committee, I really want to thank you.

We will now suspend the meeting in order to move in camera.

Thank you.

[Proceedings continue in camera]

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