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**Chair**

**Mr. Pablo Rodriguez**

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## Standing Committee on Official Languages

Thursday, June 16, 2005

•(0910)

[Translation]

**The Chair (Mr. Pablo Rodriguez (Honoré-Mercier, Lib.)):** Good morning, everyone. Welcome, committee members and guests. Today, we'll hear from two witnesses: the Fédération des communautés francophones et acadienne du Canada and the Fédération des associations de juristes d'expression française de common law. They have chosen to make a joint presentation.

From what I understand, Mr. Rioux, you'll be making the presentation, and committee members will then be able to ask any one of you questions.

**Mr. Jean-Guy Rioux (Vice-President, Fédération des communautés francophones et acadienne du Canada):** That's correct.

**The Chair:** My question is for committee members: we've decided to do a first round of five minutes, but would you like us to go back to seven minutes? So it will be five minutes right up to the end. Does that suit you?

**Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.):** Yes.

**The Chair:** Having settled that detail, I turn the floor over to you, Mr. Rioux.

**Mr. Jean-Guy Rioux:** Thank you, Mr. Chairman. Thank you for allowing us to appear. I'm here with Ms. Diane Côté, Director, Liaison and Research, at the Fédération des communautés francophones et acadienne du Canada, and Mr. Rénald Rémillard, Executive Director of the Fédération des associations de juristes d'expression française de common law.

This is the first time I've appeared before the committee as President of the Fédération des communautés francophones et acadienne. I previously appeared as Vice-President, but I was just elected President last Saturday.

**The Chair:** Bravo!

**Mr. Jean-Guy Rioux:** Thank you very much. It's a pleasure for me to appear today with Ms. Côté and Mr. Rémillard. As I was telling Diane earlier, I hope that our appearance on Bill S-3 will enable us to turn the page and that we'll be able to move on to other things after this morning's meeting. This bill or something similar has been on the table for a long time. We hope we can contribute to moving this issue forward in a positive manner.

First, we'll briefly provide you with some background, then give you our position on Senator Jean-Robert Gauthier's bill. We'll be presenting a few points which we think are important to consider since the issue here is making changes to the bill. We'll also take this

opportunity to submit proposals to you on the roles the various departments should play in implementation of the Official Languages Act. With your permission, I'll begin.

As you know, the Fédération des communautés francophones et acadienne is a national organization that brings together Franco-phone associations. It acts as the mouthpiece for nine provinces and three territories, as well as eight national organizations that have status as associate members of the Federation. Our role, of course, is to defend and promote the rights and interests of Francophones and Acadians living in minority situations in Canada.

The Fédération des associations de juristes d'expression française de common law, commonly called the FAJEF, includes seven associations of French-speaking lawyers and has a mandate to promote and defend the language rights of Francophone minorities, including, although not exclusively, in the administration of justice. The FAJEF is also a member of the FCFA and often cooperates closely with other associations of Francophone and Acadian communities on questions relating to language rights.

As I've already noted, we thank you for agreeing to hear today the views of the FCFA and the FAJEF concerning Bill S-3, which amends the Official Languages Act. We wish to assure you of our unflinching support for this bill, which is very important to the future of the communities we represent.

Now I'll address Part VII of the Official Languages Act. On October 26, 2004, the Senate of Canada adopted Bill S-3, which amended the Official Languages Act, a statute whose purpose is to:

(a) ensure respect for English and French as the official languages of Canada and ensure equality of status and equal rights and privileges as to their use in all federal institutions, in particular with respect to their use in parliamentary proceedings, in legislative and other instruments, in the administration of justice, in communicating with or providing services to the public and in carrying out the work of federal institutions;

The second purpose is to:

(b) support the development of English and French linguistic minority communities and generally advance the equality of status and use of the English and French languages within Canadian society;

The last objective is to:

(c) set out the powers, duties and functions of federal institutions with respect to the official languages of Canada.

For the Francophone and Acadian communities, the Official Languages Act is one of the cornerstones of the recognition of Canada's linguistic duality. The Official Languages Act is not an ordinary statute. The courts recognize its quasi-constitutional status and have generally given it a large and liberal interpretation in accordance with its purpose and status. As indicated in the preamble to the Act, the Official Languages Act codifies several constitutional rights and also implements the commitment of the federal government to

[...] enhancing the vitality and supporting the development of English and French linguistic minority communities, as an integral part of the two official language communities of Canada, and to fostering full recognition and use of English and French in Canadian society.

Senator Jean-Robert Gauthier tabled Bill S-3 and earlier versions of it, Bills S 32, S-11 and S-4. We're now on the fourth version. Senator Gauthier claims to be concerned at the minimalist interpretation that some federal institutions give to the Official Languages Act. He wants this Act to become a "watch dog" and not merely a "lap dog", to use his words. Also, Bill S-3 is designed to strengthen the binding nature of Part VII of the Official Languages Act. The FCFA and the FAJEF recognize the need for such an approach.

However, we should like to repeat that, in our view, Part VII is already binding and not merely declaratory. We acknowledge that there are conflicting interpretations of this point and, as you are aware, led to a dispute in the case of *Forum des maires de la péninsule acadienne*. Nevertheless, we are convinced that Parliament wished to make Part VII a genuine commitment by the federal government and its institutions to enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development. This is why both the preamble and the expression of purpose in section 2 of the Official Languages Act explicitly refer to this.

• (0915)

For several years now, the FCFA has examined the impact of the Official Languages Act on the Francophone and Acadian communities and demanded, among other things, more vigorous implementation of Part VII. Thus, in 2002, the FCFA proposed to the then-Minister of Justice that regulations be issued to implement Part VII, and its President, Georges Arès, submitted a brief to the Standing Senate Committee on Legal and Constitutional Affairs on the need for the government of Canada to adopt an overall development policy for the Francophone and Acadian communities and to strengthen Part VII of the Official Languages Act. The FCFA and the FAJEF accordingly feel that it is of the highest importance that some of the current wording of the Official Languages Act be changed so that Part VII will be interpreted by all parties as binding legislation.

The role of the Privy Council Office and the Minister responsible for official languages.

However, we feel — and this is a suggestion — that it is important to ask you to take the opportunity offered by this Bill to clarify in the Act the roles and responsibilities to be given to the minister responsible for official languages and the Privy Council Office by the Action Plan for Official Languages. The Official Languages Act already confers several responsibilities on the President of the Treasury Board and the Minister of Canadian Heritage, but a key

player is missing and that player is required for the sound horizontal co-ordination of all federal institutions.

The government of Canada has also adopted a vision for the horizontal co-ordination of matters concerning official languages. The 2003 Action Plan for Official Languages requires all federal institutions to include considerations relating to the development and expansion of the communities when they develop their policies and programs. The accountability and co-ordination framework for official languages states that it "in no way alters the obligations and commitments of each federal institution under the Act as a whole, nor the specific mandates assigned by the legislation to certain lead ministers and bodies".

However, the Action Plan provides that the responsibilities for co-ordinating government actions and communications should now be given to the minister responsible for official languages and the Privy Council Office. As you see, there are already three major partners on this issue. This co-ordination centre, which is an offshoot of the Action Plan and the accountability framework, is completely new and has been identified to give a new push to the issue of official languages. We therefore consider it normal and essential that any change in Part VII of the Official Languages Act should clearly indicate the role to be played by the Privy Council Office and the minister responsible for official languages. In fact, one of the purposes of the Official Languages Act is to "set out the powers, duties and functions of federal institutions with respect to the official languages of Canada". See paragraph 2(c).

This recent progress actually fulfils a request first made long ago by the FCFA. As early as 1994 and 1996, in submissions made to the Standing Joint Committee on Official Languages, the FCFA denounced the federal government's inability to ensure compliance with the legislative requirements by all federal departments, institutions and agencies. Among other things, the FCFA referred to the inability of the Department of Canadian Heritage to impose on any federal department at all specific measures relating to the official languages and recommended that a central agency — for example, the Privy Council — be given responsibility for enforcing section 41. Today we reiterate that same proposal: no department may impose an obligation on another department; that must be coordinated by an agency, not by a department.

Moreover, that was not the last time that such an observation was made. In 1996, the Standing Joint Committee on Official Languages concluded in its Report on the Implementation of Part VII... that

[...] the mediocre results of the first attempt to formulate action plans for implementation of sections 41 and 42 of the Official Languages Act can to a great extent be attributed to the fact that the Minister of Canadian Heritage, who acts as catalyst and co-ordinator, has not been invested with the authority to compel the designated institutions to respect Parliament's intentions.

The Committee recommended at that time that

[...] the Prime Minister establish a centre of responsibility in the Privy Council Office in order to ensure the leadership, co-ordination and accountability of departments and government agencies with respect to the implementation of Part VII of the Official Languages Act.

● (0920)

The Commissioner of Official Languages has also sounded the alarm on several occasions, including her first annual report for 1999-2000, where she clearly stated that the federal government should reassert its leadership and that a strict framework for the application of the Act should be put in place, together with accountability measures.

The FCFA viewed the adoption of the Action Plan in 2003, and especially its accountability framework, as a first indication of the federal government's desire to move in that direction. Moreover, the FCFA has noted substantial progress in terms of support and relations with some of the departments targeted by the Plan. We all recognize, however, that it is necessary to go much further to change the culture of federal institutions to ensure that they fully play their role in developing and enhancing the vitality of the official language communities. It is not easy to implement co-ordinated horizontal measures.

We also note the confusion that exists between the role of the minister responsible for official languages, who has a mandate to co-ordinate the implementation of the Action Plan, with that of the Minister of Canadian Heritage, who is responsible for the commitment made in Part VII of the Official Languages Act. In our judgment, any change in Part VII of the Official Languages Act must necessarily clarify this situation.

In a global vision of the development of the communities and a program designed to create equality of English and French in Canadian society, we are convinced that the co-ordination role given to the minister responsible for official languages and the Privy Council Office in the accountability framework is essential to the implementation of Part VII of the Official Languages Act. For these reasons, we believe that it is essential for the Privy Council Office, as a central agency, to be identified in the wording of the Official Languages Act and for a single minister, attached not to a government department but to the Privy Council, to be given a mandate and the authority to co-ordinate the federal government's commitment and, as the need arises, the power to impose the way this will be done.

In order to respond to these concerns, we suggest that the Bill currently being considered be amended.

Now I'll discuss the foundations of Part VII.

Part VII is an extension of subsection 16(1) of the Canadian Charter of Rights and Freedoms of 1982, which provides that "English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada". The enactment of Part VII in 1988 was designed to give effect to the principle of "advancing the equality of status or use of English and French" referred to in subsection 16(3) of the Charter.

In our view, Part VII is one of the most important parts of the Official Languages Act since it impacts more directly on the collective dimension of language rights and the crucial role played by the French-language minority communities in ensuring true equality of status for French in Canada. The collective or community dimension of language rights is recognized in the case law and by

many authors. Moreover, the Supreme Court of Canada has recently indicated with respect to section 23 of the Charter that "[t]his purpose indicates that s. 23 is both a social and collective right, and an individual and civil right". Furthermore, in a recent decision the Federal Court clearly establishes a link between rights to services and the right of a community and not merely individuals to receive them.

Part VII of the Official Languages Act accordingly recognizes the link between the vitality of the communities that hand down a language and the status of this language. In enacting Part VII of the Official Languages Act, Parliament wanted to ensure that in future government policies and programs should have results for the official language minority communities that were comparable to those enjoyed by the majority language groups. Parliament also recognized the need to ensure that the specific needs and interests of the Anglophone and Francophone minorities would receive full consideration.

It must be stressed that, like a number of provisions that guarantee language rights, Part VII of the Official Languages Act is also remedial in nature. It is not designed to enshrine the status quo but rather to remedy the gradual historical erosion of the official language minorities by imposing a duty on the federal government to take their interests into account and to promote their development in order to encourage real equality between the country's official language communities.

● (0925)

We therefore expect the government of Canada to show strong leadership, of course for federal institutions but also for the other levels of government. It is important to note that leadership does not necessarily mean shouldering all responsibility. It may mean taking measures, in co-operation with the provinces and territories that truly focus on the development and growth of the communities. The existence of the Official Languages Support Program, the OLSP, in education is a good example. Education is not a federal head of jurisdiction but there is pronounced federal leadership in that field.

There are a number of other areas where the federal government can and must take a leadership role to promote access in the minority language to the essential services enjoyed by the majority. We merely need to think of the fields of health, justice, early childhood and immigration, and there are many others. Even if we recognize that some steps have been taken in this direction, through either language provisions in some of the federal/provincial transfer agreements or direct agreements with the communities, much still remains to be done. Leadership and support in the form of federal government incentives are still essential catalysts in empowering the communities to obtain the services they need. We cannot therefore support a proposed amendment that would limit the actions of the federal government in such a way that it can no longer use its power to encourage the provinces or support community organizations to provide the services required for the development of their official language minority community.

Now I'll discuss the proposed amendments to Bill S-3.

Given the importance of Part VII of the Official Languages Act, we shall follow the debates in Parliament concerning Bill S-3, the goal of which is to make Part VII clearer and expressly binding, with great interest. The amendments proposed in Bill S-3 are designed to further clarify Parliament's intentions. We are happy to recognize that the amendments proposed in Bill S-3 clearly reflect the recommendations made by the FCFA on its appearance before the Senate Standing Committee on Legal and Constitutional Affairs concerning Bill S-32 in February 2002.

We should now like to make the following comments and suggestions concerning Bill S-3.

As regards section 41, the new subsection 41(2) provides that federal institutions must ensure that "positive measures" are taken to ensure the implementation of the federal government's commitment with respect to the growth and development of minorities and the promotion of official languages set out in subsection 41(1). Here we're talking about the vitality and development of the minorities as well as advancement of official languages. This addition clarifies the fact that Part VII is binding legislation.

The new subsection 41(3), for its part, authorizes the federal government to make regulations setting the conditions governing the application of the Act, as it does under the Regulations on the application of Part IV, which concerns communications and services. Thus, the government could make regulations requiring federal institutions to adopt a mechanism for consultation with the Francophone and Acadian communities to determine their needs and expectations for the development of their communities. These regulations governing the application of Part VII would prescribe minimum levels that federal institutions would be required to observe.

We should also like to suggest that a subsection 41(4) be included in the existing Bill. Given its role in the horizontal co-ordination of the actions of the government and federal institutions with respect to official languages, we believe that the minister responsible for official languages should be responsible for implementing the regulations. We suggest the following wording:

41.(4) The minister responsible for official languages shall be responsible for the application and implementation of the regulations made under subsection (3) of this section.

As for section 42, in order to be consistent with the recommendations that we made earlier, we suggest that section 42 be amended as follows:

42.(1) The Privy Council Office shall be responsible for promoting the development of an accountability framework for the official languages policy of the federal government. This function shall be designed to enable the Privy Council Office to ensure that a global approach is taken to the actions of federal institutions to enforce the Act.

(2) The Minister of Canadian Heritage, in consultation with other ministers of the Crown, shall encourage and promote a co-ordinated approach to the implementation by federal institutions of the commitments set out in section 41.

(3) The minister responsible for official languages may, as part of the minister's responsibilities, recommend regulatory measures to the Governor in Council for the implementation of this Act.

Lastly, the FCFA and the FAJEF feel that the amendment to subsection 77(1) of the Official Languages Act is the most significant and the most important in this Bill, because it provides for a clear remedy for violations of the commitments set out in Part

VII. The FCFA and the FAJEF accordingly support this amendment without reservation.

● (0930)

We understand that a number of amendments to the Bill have already been proposed by members of the Committee. We would ask you to take the following factors, which we consider essential in strengthening Part VII of the Official Languages Act, into consideration in your deliberations: first, the importance of clarifying in the Act the roles of the Privy Council Office and the minister responsible for official languages; second, the importance of a provision that would allow the Governor in Council to establish by regulation the conditions governing the implementation and enforcement of this Part of the Act; third, the importance of providing judicial relief in the event of a violation.

In conclusion, the vitality of the French-language minority communities is the keystone in ensuring equal status for English and French in Canada and the continuation of Canada's linguistic duality. The objectives that Part VII of the Official Languages Act is designed to attain offer tangible proof of the federal government's long-term commitment to Canada's linguistic duality and heritage, characteristics that distinguish this country with honour on the world stage.

Furthermore, Part VII must enable Francophones in this country to enjoy greater security with respect to their language. This speaks to what Confederation was really about in 1867 and espouses the unwritten constitutional principle of the protection of minorities referred to by the Supreme Court of Canada.

The FCFA and the FAJEF therefore maintain their position that Part VII of the Official Languages Act is binding but they support any amendment that would have the effect of making its binding nature clearer without at the same time reducing the duty to enhance the vitality of linguistic minority communities and assist their development and to foster the full recognition and use of English and French in Canadian society.

Thank you for your attention.

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

I remind committee members that they have five minutes per question or speech.

Mr. Lauzon.

**Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC):** Thank you, Mr. Chairman.

Welcome and congratulations, Mr. Rioux.

Sometimes I don't understand everything in French. You have a great deal of information, you've done a lot of work and you've done a lot of research. In your speech, you suggest major changes to responsibilities for implementation of the Official Languages Act. You suggest that shouldn't be the responsibility of the Minister of Canadian Heritage.

Can you explain exactly what you're suggesting?

**Mr. Jean-Guy Rioux:** I'll try to give you an explanation that Mr. Rémillard and Ms. Côté can add to.

Three institutions are currently responsible for official languages: Canadian Heritage, the minister responsible for official languages and the Treasury Board. We take into consideration the fact that no department can impose obligations on any other department. We're saying there should be a central agency coordinating actions horizontally in order to be sure that, at some point, all the departments responsible can be informed of their obligations in the implementation of the Official Languages Act. That's why we recommend that an agency coordinate the actions of the various departments responsible for implementing the Official Languages Act.

**Mr. Guy Lauzon:** Those three departments will essentially be responsible for providing services, won't they?

**Mr. Jean-Guy Rioux:** Those departments aren't the only ones responsible.

**Mr. Régnald Rémillard (Executive Director, Fédération des associations de juristes d'expression française de Common Law Inc.):** It's broader than that; these are really obligations that concern all the departments, but there should nevertheless be a central agency coordinating everything, which has the powers and authority necessary to ensure this coordination is done effectively.

**Mr. Guy Lauzon:** Who would have that authority?

**Mr. Régnald Rémillard:** It would be the Privy Council Office and the minister responsible for official languages, rather than the Department of Canadian Heritage, which, in bureaucratic jargon, is something of an operational service, with vertical responsibilities where there are obligations. In this case, we're talking about horizontal responsibilities, that is to say responsibilities that involve a number of areas.

It's very hard for a department that has vertical or sectoral responsibilities to impose a procedure on other departments which are also sectoral. That's why it would be important in this case to have a central agency that has the necessary authority to ensure this horizontal coordination.

• (0935)

**Mr. Guy Lauzon:** That's a very interesting way of proceeding.

How will Bill S-3 apply to service to the minority communities? How will the bill change the services they have received or are receiving?

**Mr. Jean-Guy Rioux:** Ultimately, what difference would that make?

**Mr. Guy Lauzon:** Yes.

**Mr. Régnald Rémillard:** Perhaps I can...

**Mr. Guy Lauzon:** Will that greatly improve the situation?

**Mr. Régnald Rémillard:** It would make it so all the federal institutions would contribute to the development and advancement of the official language communities rather than limit them to one or two areas. The purpose is really to broaden its actions.

**Mr. Guy Lauzon:** In a number of minority communities right now, there are hospitals where you can't get services in the minority language.

How can this situation be corrected quickly?

**Mr. Régnald Rémillard:** In that type of situation, for example, the federal government could try to negotiate with the provinces to determine whether they can provide those services in the minority official language, or, in some cases, it could do so directly with the communities.

**Mr. Guy Lauzon:** The problem is that that should already be the case, but it isn't.

**Mr. Jean-Guy Rioux:** A lot of work has nevertheless been done in the past two years as a result of the Société Santé en français.

**Mr. Guy Lauzon:** Yes.

**Mr. Jean-Guy Rioux:** In national terms, Société Santé en français is working very closely with the communities so this can be done much more quickly, in particular so that primary services can be provided in French. This is even being done with tertiary services in certain provinces.

Diane, do you want to add something?

**Mrs. Diane Côté (Director, Liaison and Research, Fédération des communautés francophones et acadienne du Canada):** That's fine for the moment.

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

We'll continue with Mr. André.

**Mr. Guy André (Berthier—Maskinongé, BQ):** Good morning, Mr. Rioux. Once again, congratulations on your appointment.

I didn't hear much about the special status of French in Quebec. I'm somewhat familiar with the FCFA's objectives: you're very concerned with the advancement of French. The situations of French in Quebec and outside Quebec are different. In Quebec, we constitute a Francophone majority, but we are a minority in North America.

We talk about equality of status for both languages. According to the representatives of Impératif français whom we recently met, if equality of status of English and French is promoted in Canada and that principle is applied in Quebec, the French language will be weakened in Quebec. And if French is weakened in Quebec, it will thus be weakened outside Quebec.

I'd like to hear what you have to say on that subject.

**Mr. Jean-Guy Rioux:** That's a very good point. Of course, Quebec's Anglophone minority almost has equality of status already, whereas that's not the case of the Francophone minorities in Canada. If Quebec's Anglophone minority really had equality of status, that would give us an additional lever to achieve equality of status in our provinces. You also have to see it from that angle.

In addition, in demographic terms, it must be understood that Francophones form the majority east of Ottawa. Some good work is already being done and should be reinforced.

I don't believe that equality of status of English and French in Canada would reduce the strength of the Francophone minority outside Quebec; equality of status would give us a lever in our region.

Régnald, do you want to add anything?

• (0940)

**Mr. Rénauld Rémillard:** Yes.

I believe the question of equality of status mainly concerns French. In the Casimir and Ford cases, for example, the Supreme Court of Canada recognized that French is in the minority in North America and that the concept of equality of status benefits Francophones across Canada.

Of course, the situation in Quebec is different from that outside Quebec. It's nevertheless recognized that French in Quebec is a language that's experienced in the North American context. Formal equality of status, for example, wouldn't be considered a precedent in interpreting certain language rights. The special situation of French, which is different in and outside Quebec, is recognized, but equality of status must be interpreted in a much subtler way. It's not just identical, equal treatment, without regard to the specific situation of communities.

**Mr. Guy André:** All right.

So you recognize Quebec's specificity. However, I didn't hear that recognition in your remarks.

As you know, the French language is in trouble. *Impératif français* provided us with statistics that show that the number of people who speak French is declining. So if we don't protect the special status of French in Quebec, I believe the Francophone communities will be indirectly affected, since there's a kind of leadership. I heard some comments on this point. You say nothing on the subject in the amendments you propose.

**Mrs. Diane Côté:** I believe that Mr. Rémillard nevertheless clearly stated that, in our view, in actual fact, there already is a difference in situation between Francophones living in minority situations and Anglophones in Quebec. In recent court judgments, there is an awareness that we're not seeking absolute equality, but rather a balance. At that point, at least from our perspective, it's not necessary to specify that Quebec would be different, since it is in any case. That's a fact.

**Mr. Guy André:** "Balance" is already better than "equality".

**The Chair:** Mr. André, your time is up.

Mr. Godin, over to you.

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** Like the others, I congratulated you this morning. I congratulate you again, particularly because you come from the Acadian Peninsula. We have to celebrate the fact that the national organization has chosen a guy from back home, as we say back home. I want to congratulate you on being elected president.

I also want to welcome the other two persons, Mr. Rémillard and Ms. Côté.

Mr. Rioux, earlier you said that Part VII of the Official Languages Act is binding. What's your basis for saying that it's currently binding?

**Mr. Jean-Guy Rioux:** Mr. Rémillard can answer that question. However, certain judgments have previously been rendered. Some lawyers say it's binding, others that it's still declaratory. However, some judgments interpret it as being binding.

**Mr. Rénauld Rémillard:** There's a debate on this subject. I believe you've heard from a number of constitutional experts who've previously addressed the issue. They say they believe it's binding and that it will be up to the Supreme Court to decide, as necessary. However, I believe that Mr. Braën said that legal arguments can be advanced to defend both positions. Your position is that it's binding, and thus that it's more than a pious hope and there are certain obligations, but that's a legal issue that hasn't yet been decided.

• (0945)

**Mr. Yvon Godin:** You may have seen the testimony of those who fear the amendments to Bill S-3. Bill S-3 makes Part VII clearly binding. There aren't 20 million ways to interpret it. It states that it's binding, and now people have come up with all kinds of amendments.

The concern is that a bill might perhaps render it not binding, since the Supreme Court could decide that it's binding as it stands in the decision it will render 12 months after the hearings that will be held in December.

Have you examined the government's amendments? I'd like to hear your comments or fears on the subject.

**Mr. Jean-Guy Rioux:** Ultimately...

**Mr. Yvon Godin:** If you have any fears.

**Mr. Jean-Guy Rioux:** ...we feel that amendments that would reduce the scope of the bill should not be passed. In other words, the proposed amendments shouldn't restrict the obligations under the act. In other words, the amendments should serve to improve and enhance the act.

We'd be prepared to support the bill as it is presented. However, we have suggestions to make regarding the definition of roles, without wanting to change anything in the act as such. They only concern the definition of the roles of the departments.

I don't know whether my colleagues want to add anything, but that's our current position.

**Mrs. Diane Côté:** Yes, that's correct.

In conclusion, the amendments moved by the government restrict the scope of the act, in our view. Furthermore, we feel those elements could appear in regulations, but are not necessarily appropriate to a statutory enactment.

**Mr. Yvon Godin:** Pardon me, did you say that the government's amendments as such should be included in regulations?

**Mrs. Diane Côté:** In our view, it would be more appropriate to put aspects such as the obligation to consult and the departments that should be consulted first or second in regulations than in a statutory enactment as such.

**Mr. Rénauld Rémillard:** There's the entire matter of certain terms and conditions. Mr. Braën talked about that. In particular, how do you ensure compliance with the commitment and obligations under section 41? This kind of thing could easily be done through regulations.

If you analyze certain amendments, you can see that their wording contains a lot of loopholes. With regard to the obligation to consult, one of the amendments states, and I quote:

(b) consult any interested organizations, including organizations representing English and French linguistic minority communities in Canada, if the federal institution considers it appropriate in the circumstances;

That really opens the door; it's very discretionary.

Let's be clear on this. To all intents and purposes, Bill S-3, with the proposed amendments, constitutes a loss, a step backwards from the current arrangement.

**The Chair:** Thank you.

As I understand it, you're saying that the proposed amendments would be a step backwards relative to the present situation?

**Mr. Jean-Guy Rioux:** Yes. They open the door. There's much more room for interpretation.

**The Chair:** Let's talk about Part VII. In your mind, the present act is already binding. So you're confident about the Forum des maires case. You're confident that confirms it's binding. Is that correct?

**Mr. Régnald Rémillard:** Based on the past, you can say that the Francophone and Acadian communities rarely lose before the Supreme Court of Canada, although you can never be sure.

**The Chair:** That's a big statement.

I'll reconsider my reasoning. You seem to be confident about this case. Consequently, you would prefer that the act remain unchanged rather than see us pass Bill S-3 with the government's amendments. Otherwise you'd prefer that we pass Bill S-3 as drafted by Senator Jean-Robert Gauthier. Is that correct?

• (0950)

**Mr. Jean-Guy Rioux:** Yes.

**Mrs. Diane Côté:** The ideal for us would be that Bill S-3 as drafted by Senator Gauthier be passed. Furthermore, we think that the government's amendments weaken Part VII as it currently stands.

**The Chair:** That's a very important statement.

Would you prefer that we amend subsection 77(1)?

**Mr. Régnald Rémillard:** If you only amended subsection 77(1), that in itself would be a positive move.

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

Mr. D'Amours, over to you.

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

Thanks to our witnesses for being here. Congratulations on your new position, Mr. Rioux.

I'd like to go back to the question concerning Bill S-3 as it originally was compared to what it would be if certain amendments were made to it. At first, it was a matter of accountability, but in terms of results than process.

In the context of the implementation of new acts or measures, don't you believe that consultations are inadequate? In fact, even if we're focused on results — I'm not just talking about this bill, but about many other cases as well — people often say that the government doesn't listen to them enough and that they have even greater concerns.

Don't you believe some improvement should be made to the process? For example, rather than merely consider results, we could

implement a listening process that would require the government to conduct consultations. Those consultations could have an impact on results, to the extent that they would result in recommendations, which in turn could eventually be implemented.

**Mrs. Diane Côté:** To a certain extent, the government and the departments are already consulting the communities. That moreover is why we have reservations about the proposed amendments.

This matter is currently left to the discretion of the departments, and we feel that's a problem. For example, paragraph 1(2)(b) of proposed amendment G-1 states: "if the federal institution considers it appropriate in the circumstances".

That means that the departments will decide whether or not it's appropriate to consult us. In other words, no change has been made to the situation, but, under Part VII, we're subject to consultation only. So there's no longer any obligation to act.

In our view, the problem will persist until the government shows the necessary leadership, in other words until it has agreed that recognition of the equality of the two languages and development of the communities requires that action be taken.

**Mr. Jean-Guy Rioux:** The way in which our representative organizations work, be it at the provincial, sectoral or national levels, shows us that most of the work done over a number of years to assert our identity is over. I believe we now know who we are and in what direction we should head. We've achieved a certain maturity, indeed, in some cases, definite maturity.

However, government agencies at the municipal, federal and provincial level must get to the point where they consider consultation of our community organizations unavoidable when it comes to implementing new programs. Before becoming president of this organization, I was president of the SAANB. At the time, the provincial government had agreed that, under the new agreement with the federal government, representative organizations and sectoral organizations would be consulted. That's one way to ensure that initiatives that are taken follow what we consider is an orientation conducive to the development and vitality of our communities.

That's being done, but I don't believe there's any formal structure requiring anyone to do it. In short, boiling it down to a question of determining whether it's appropriate or suitable, they allow interest to determine the matter. All it takes is for the government not to like a given organization for it not to consult it.

• (0955)

**Mr. Jean-Claude D'Amours:** Do I have any time left, Mr. Chairman?

**The Chair:** You have thirty seconds.

**Mr. Jean-Claude D'Amours:** I understand your point of view. Here we're talking about results in the context of Bill S-3 as it currently stands, as opposed to what it would become as a result of certain amendments. In the latter case, it would be based more on consultations. So you're in favour of consultations.

However, don't you think it might be appropriate to base results on the recommendations arising from consultations? That could lend more weight, not to each of the parts of the whole, but to the whole itself.

**Mrs. Diane Côté:** That's one of the things we were talking about. This kind of specification would be more appropriate in regulations...

[*Translation*]

**Mr. Jean-Guy Rioux:** ... than in the act.

**Mrs. Diane Côté:** ...because then you can state that such and such a step shall be taken to define the work the government must do and to ensure it does it.

However, we don't feel its place is in the text and wording of the act because that limits the matter to a single definition and to a single vision of community development. In fact, that states that the development of the communities is limited to consultation of the communities.

**Mr. Jean-Claude D'Amours:** That should be done through regulations.

**Mrs. Diane Côté:** At least in our view.

**Mr. Jean-Guy Rioux:** Frameworks should be set out in regulations because they can change.

**Mr. Jean-Claude D'Amours:** Since the Chairman seems to have allowed me a little more time...

**The Chair:** No, no.

Pardon me, Mr. Bergeron, you dared say something?

**Mr. Stéphane Bergeron (Verchères—Les Patriotes, BQ):** I've already seen the Chair [*inaudible*].

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

**Mr. Stéphane Bergeron:** There are others for whom it's more...

**The Chair:** No, no. The Chair is impartial and very fair.

Mr. Lauzon.

**Mr. Guy Lauzon:** Thank you, Mr. Chairman.

Mr. Rioux, you said in your presentation that, in your view, Part VII is already binding, not just declaratory.

Do you believe that Bill S-3 is necessary?

**Mr. Jean-Guy Rioux:** Yes, because Bill S-3 goes much further and does much more than state that Part VII is binding or declaratory.

In the judgments to date, no court has officially said it was binding, but, based on our interpretation, the judgments have been rendered as though it were binding, even though that hasn't officially been said. We suppose so because we analyze the judgments, but the Supreme Court of Canada hasn't yet ruled on this.

**Mr. Guy Lauzon:** So Bill S-3 represents an improvement.

**Mr. Jean-Guy Rioux:** Absolutely.

**Mrs. Diane Côté:** Yes.

**Mr. Guy Lauzon:** Thank you.

**The Chair:** You're talking about Bill S-3 as it is currently drafted?

**Mr. Jean-Guy Rioux:** Yes.

**Mr. Guy Lauzon:** Without the amendments?

**The Chair:** As drafted and without amendments.

**Mr. Jean-Guy Rioux:** Yes.

**The Chair:** All right. I would point out that consultation is mentioned a number of times in the accountability and coordination framework of the Action Plan for Official Languages.

**Mr. Régnald Rémillard:** Absolutely.

**Mr. Jean-Guy Rioux:** That's what's led us to clarify the roles of the various departments that have obligations under the Official Languages Act. The action plan establishes the actions of the departments, and, while some of them have begun implementing the action plan without any problem and are working with the communities, others still have to be pushed. What will bring them back into line? What department will require another department to comply with the action plan? That's where the problem currently stands.

**The Chair:** All right. You understand that, even if you say it's binding, it's still declaratory in the government's view.

**Mr. Jean-Guy Rioux:** Yes.

**Mrs. Diane Côté:** We understand that.

**Mr. Jean-Guy Rioux:** These are pious hopes.

**The Chair:** But you always win.

**Mr. Stéphane Bergeron:** It's the government that doesn't understand.

**The Chair:** Mr. Simard.

•(1000)

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

Welcome to our guests. I had the opportunity to congratulate the new president personally at the annual meeting last weekend.

**Mr. Stéphane Bergeron:** Toady.

**Hon. Raymond Simard:** I think the annual meeting truly reflected the vitality you now see in the communities. I very much appreciated that on the weekend. This isn't about toadying; I in fact think that the meeting was very important.

I wanted to go back to the question the Chairman asked earlier concerning the roles of the Department of Canadian Heritage and the Privy Council and the responsibility of the minister responsible for official languages, because it's quite complex.

The Department of Canadian Heritage has long been responsible, has always been responsible for official languages. It has the infrastructure to deal with costs, expenditures and all that, which the other organizations don't necessarily have. The Privy Council is already playing a very important role in coordinating the departments and making them aware of their official language responsibilities. I'd like to know a little more about the relations you anticipate.

The Department of Canadian Heritage has an important role to play, since the infrastructure is there, and the Privy Council and the minister responsible for official languages do a great deal to handle coordination. How do you view the changes in that area?

**Mrs. Diane Côté:** The point is really to include in the act what was put in place for the action plan. The Privy Council Office now has responsibility for horizontal coordination of the federal government's actions regarding official languages. But that's not currently stated anywhere in the act. Since it's not in the act, the Privy Council Office is doing its best, but it doesn't have full authority to do its work.

As for the Department of Canadian Heritage, it has programs and actions to do at various levels, under section 43 of the Official Languages Act. That won't change. However, the roles will be clarified. The Department of Canadian Heritage has programs to administer as a department, but the federal government's horizontal action under its official languages policy will fall to a central agency, which will be the Privy Council Office. The point is simply to clarify these matters in the act.

**Mr. Jean-Guy Rioux:** The minister responsible for official languages that we previously had, Minister Dion, was also President of the Privy Council. In his mind, that went without saying, because he had authority. However, in the new Cabinet, a new minister has been made responsible for implementation of the Official Languages Act, but he has no authority to implement the act. He only has power to dialogue with people. He has no budget; he has nothing. It's the others who have the budgets.

Consequently, all this should really be clarified. Nothing would be taken away from the department, but there would be an agency that would really have the power to do coordination in a much more effective manner.

**Hon. Raymond Simard:** Thank you.

You also said in your presentation that we previously failed three times in our attempts to resolve this matter. I feel we have a fairly important responsibility here in committee to ensure that we succeed this time. I wouldn't want to put too much pressure on my colleagues, of course, but we've always had good cooperation in this committee.

I'd like to get your impression about how important it is to succeed this time. Of course, it may be possible to wait for the Supreme Court's findings, which will be known in a year and a half or two years, but you never know when a bill like S-3 may come up again, if we don't succeed this time. How important do you think it is to resolve the matter this time?

**Mr. Jean-Guy Rioux:** Here's the choice: either legislators shoulder their responsibilities, or they leave it for the Supreme Court to decide.

The Supreme Court option requires an enormous amount of time, energy and financial resources for the communities. It's no easy matter going to the Supreme Court. So I believe that what we have here is a chance to show that legislators can make changes without us always being forced to go to the Supreme Court. As Régnald said a little earlier...

• (1005)

**Hon. Raymond Simard:** We tend to win.

**Mr. Jean-Guy Rioux:** ...we tend to win.

**Hon. Raymond Simard:** Thank you very much.

**The Chair:** Thank you.

As regards ministerial responsibilities, if your proposal were implemented today in concrete terms, responsibility for the matter would shift from Ms. Frulla to Mr. Bélanger.

**Mrs. Diane Côté:** There's been confusion since the Action Plan for Official Languages was implemented, because a new responsibility for horizontal coordination has been assigned that previously didn't exist. That in effect confuses roles. According to the act, you're right in saying that it's Minister Frulla, the Minister of Canadian Heritage...

**The Chair:** But under your proposal, what would that lead to in concrete terms today?

**Mr. Stéphane Bergeron:** Mr. Bélanger would be responsible for coordination.

**Mr. Jean-Guy Rioux:** That's correct. He'd be responsible for coordination, not programs.

**The Chair:** Thank you.

Mr. Bergeron.

**Mr. Stéphane Bergeron:** Thank you for being with us this morning. Thank you for your observations, which will contribute to our thinking on Bill S-3.

Mr. Chairman, as you may guess, it's not because I wasn't there on the weekend, snacking on "petits fours" and "amuse-gueules", that I was any less pleased about your election. I'll have other occasions later to taste them with you, as you know.

What concerns me, in your brief, isn't what it says, but rather what it doesn't say. For example, you state in your conclusion:

The vitality of the French-language minority communities is the keystone in ensuring equal status for English and French in Canada and the continuation of Canada's linguistic duality.

I entirely agree with that.

In saying that, you make it clear in your mind that there can be no equality of status without active support for the Francophone and Acadian communities. That, I believe, is what Ms. Côté was saying a few moments ago. However, what the conclusion doesn't say is that the keystone in ensuring equal status for English and French is also protection of the status of French in Quebec.

This week, *Impératif français* gave us very disturbing statistics on language transfers in Quebec itself.

It goes without saying that the survival of French in Canada depends, of course, on the vitality of the minority French-language communities, but also on that of the French community in Quebec, which, in spite of everything, constitutes a minority in North America, as my colleague pointed out a few moments ago.

You say a little earlier on in your brief:

We cannot therefore support a proposed amendment that would limit the actions of the federal government in such a way that it can no longer use its power to encourage the provinces or support community organizations to provide the services required for the development of their official language minority community.

I agree on that as well.

Once again, what your brief doesn't say is that that may not be true for all of Canada. We can't say we agree with the federal government. We can't say we agree that the government should use its spending power to frustrate, for example, the provisions of Quebec's Charter of the French Language. What concerns me in your brief is not what it says — I agree with what it says — but what it doesn't say.

Thus far, we've received a number of proposals in this area. You also told us that you were interested in the work of the parliamentarians considering Bill S-3. So you're probably aware that we've received a few proposed amendments. In addition to those of the government we've just discussed, there's a proposal from Mr. André the purpose of which is to exclude Quebec from the application of Part VII of the act, a proposal from Mr. Lauzon to respect the jurisdictions of the provinces and territories and a proposal by Mr. Doucet, of the University of Moncton, to consider the linguistic situation.

As you noted in your brief: the courts have been considering the linguistic situation for a certain number of years. However, the Official Languages Act, as it currently stands, maintains the myth that there is or should be equality of status between English and French in Canada.

Don't you believe it would be interesting and appropriate to include in the bill, which concerns Part VII of the act, which in turn goes beyond the federal administration, federal jurisdictions, the obligation to take the linguistic situation into account?

• (1010)

**Mr. Jean-Guy Rioux:** I believe there are a number of questions in that comment.

It seems to me that “taking the linguistic situation into account,” has already been done. That's why the act doesn't take it into account. However, Quebec has prerogatives with regard to the devolution of powers, of obligations with regard to the provinces and programs negotiated with the provinces. The particular characteristics of Quebec are already recognized in that respect.

Diane may make a comment on that.

**Mrs. Diane Côté:** It should be realized that the words “specific linguistic characteristics” may also be very dangerous for our communities.

At this stage, this somewhat addresses Quebec's concern, but, on the other hand, it may also affect some of our smaller minority communities. So this is a troubling approach in our view.

**Mr. Stéphane Bergeron:** Shouldn't taking the linguistic situation into account help the minority communities, on the contrary? Let's suppose we see that a Francophone community, in one of the provinces, is dispersing and that, as a result of the linguistic situation in that province, that minority in particular must be helped. Taking the linguistic situation into account should be more of an asset than a

liability for the Francophone and Acadian minorities. Since the courts already take the linguistic situation into account in any case, in what way does including that in the act constitute a problem?

**Mr. Régnald Rémillard:** I'd like to add that we use contextual analysis. Consequently, the situation of each of the provinces will be taken into account.

I'd like to go back to the question on principles. We talk about asymmetry, but regardless of the word used, the situation of French is different from that of English because of the context and the North American environment. The Fédération des communautés francophones et acadienne du Canada and the Fédération des associations de juristes d'expression française de common law intervened before the Supreme Court of Canada in the Casimir affair. Our presentation took that situation into account, because it's important to consider the status of French in North America and that it was necessary to adapt... The principle has already been accepted. Although it's not expressly stated in the brief, we take into account the existence of that principle and this approach. I believe that Francophones outside Quebec are the people most aware of the fragile nature of French in North America. We're experiencing the same phenomenon, to various degrees.

It's important for us to prevent an amendment to the wording from having a negative impact on the Francophone and Acadian communities.

**Mr. Stéphane Bergeron:** I entirely agree with you.

**The Chair:** Mr. Godin, it's your turn.

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

Stéphane talked about taking the linguistic situation of each province into account. It was said that that's troubling, but that's what the act and the Constitution provide. I believe that's what Mr. Doucet said when he appeared. If I'm not mistaken, Pierre Foucher said the same thing. If what the act and the Constitution say is good, why be concerned? You think that it's binding and that the Supreme Court will no doubt interpret matters on that basis. Rather than always having to turn to the courts, why not include this in Bill S-3 and have done with it? If the government thought it was binding, it wouldn't have gone to the Supreme Court in December. The government claims it's not binding. Consequently, if Bill S-3 wants to make it binding, the government will try to make amendments to it. These are intelligent people. They add enough amendments to soften the bill and do indirectly what they can't do directly.

We all think that the linguistic situations of the provinces already exist. We want a bill that remains open. That would solve the problem as regards the provinces. Quebec often wants to be excluded. I don't think that's the right direction to take. We should consider the linguistic situations of all the provinces. Why don't we agree on that? It was said that the bill already exists. The purpose of a bill is to clarify matters. Why not clarify that and address those concerns? If we don't want it and it causes other concerns, that means we don't agree on this bill. The matter's unclear.

•(1015)

**Mr. Jean-Guy Rioux:** I believe that's correct. Everyone agrees on Bill S-3 as it was introduced. We only wanted to try to clarify the roles of the departments. So we're on the same wavelength. What effect would that have on the Forum des maires de la Péninsule acadienne case before the Supreme Court? If the bill is passed before the Supreme Court sits, the arguments will definitely be more solid.

**Mr. Yvon Godin:** I agree on that point, Mr. Chairman, but we could leave Bill S-3 as it stands and add that the linguistic situations of the provinces must be taken into consideration. Mr. Doucet said that would be the ideal, rather than simply saying that we exclude Quebec or we exclude the provinces. Excluding the provinces: just imagine! We could just as easily get rid of them and be done with it.

That means we'd be able to do promotion in the provinces. Doing promotion in Ottawa doesn't count. The thing is to do promotion in New Brunswick, Nova Scotia, Newfoundland, Prince Edward Island, Manitoba and Ontario. From the moment you're excluded, you don't do any more promotion. You can't even get involved in it anymore.

We can say that we're going to consider the linguistic situations of the provinces, which are already respected in the Constitution. That's simply to reassure the provinces, to reassure everyone around the table. I believe that's what Mr. Doucet said.

Do you agree, Mr. Rémillard? What's better: excluding Quebec, excluding the provinces or taking the linguistic situations of the provinces into account?

**Mr. Rénaud Rémillard:** That's really a question of detailed wording, but the linguistic minority in a province could be based on the number of persons, a linguistic minority speaking an unofficial language. This shouldn't go against the official language minority.

**Mr. Yvon Godin:** No. As Mr. Bergeron mentioned, sometimes it's what's not said that's dangerous.

**The Chair:** Could you elaborate on that? That's interesting.

**Mr. Rénaud Rémillard:** I'll give you an example. Imagine there's a major immigration wave in Manitoba and that 15 percent of the population speaks a an unofficial language, Spanish. This wording shouldn't be used to decide to take into account the specific linguistic situation of that province and to go against the linguistic minority, which would be Francophone.

That's my only fear over wording such as this, but that's a question...

**Mr. Stéphane Bergeron:** But we're talking about Canada's Official Languages Act; we're not talking about other linguistic minorities.

**Mr. Rénaud Rémillard:** The linguistic situation should be specified.

**Mr. Stéphane Bergeron:** We're talking about official language communities.

**Mr. Rénaud Rémillard:** It should be specified.

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

Thank you, Mr. Godin

Would you like another round?

**Hon. Raymond Simard:** Yes, I have questions to ask.

**The Chair:** Then we'll do another round.

Mr. Lauzon.

•(1020)

**Mr. Guy Lauzon:** Ms. Côté talked about the situation of the ministers and the changes you're proposing. As we know, Ms. Adam said in her first two reports that the action plan was not moving forward quickly enough. If responsibility were concentrated in a single minister, Ms. Adam could go and see that minister rather than have to do business with a number of ministers, as she currently does.

Do you think the changes you're proposing could improve the situation with regard to the Action Plan for Official Languages?

**Mrs. Diane Côté:** I think so, to a certain degree, but there will always be a number of official languages stakeholders. That's inevitable because it's a horizontal issue.

The Treasury Board is already identified in Part IV of the act. The Minister of Canadian Heritage is already identified in the act with regard to the offer of services, and there is a certain incentive to coordinate the activities of the other departments.

The problem we've detected from the outset with regard to the responsibilities that are conferred on the Department of Canadian Heritage is that, since this is a department that has vertical responsibilities, the minister doesn't have the necessary authority to impose the work that must be done on his or her colleagues.

**Mr. Guy Lauzon:** Why isn't Mr. Bélanger granted the necessary funding when he is given the responsibility? It does nothing to help matters if the money is given to Mr. Alcock.

**Mrs. Diane Côté:** Part IV of the act gives Mr. Alcock the authority to implement it. He therefore has a certain budget for that purpose. According to our analysis, the Privy Council Office definitely has a small operating budget. However, it's authority that it needs, not programs. The Privy Council Office will have a program for implementing the act. However, he will have the authority to work with his colleagues so that that is done.

**Mr. Guy Lauzon:** So that they're held responsible.

**Mrs. Diane Côté:** Exactly.

**Mr. Guy Lauzon:** I represent a Francophone minority community that is not very well organized. If we pass Bill S-3 and the government doesn't give us the services to which we're entitled, we won't be able to seek court remedies to solve this problem. Bill S-3 will then be of no use to us. For Bill S-3 to be of use to us, we would need a certain amount of funding.

**Mr. Jean-Guy Rioux:** Here we're talking about the organization of the community as such. The community has to organize.

**Mr. Guy Lauzon:** Yes, but if it isn't organized...

**Mr. Jean-Guy Rioux:** In Ontario, organizations are grouping together and creating a new organization. That's the door you have to knock on in order to access available programs.

**Mr. Guy Lauzon:** That's working well in some places, but it's not working well in others.

**Mr. Jean-Guy Rioux:** That's the responsibility of the communities. People will then have to find the provincial organizations that are involved in community promotion and development and request assistance from them. That assistance exists, but they have to get organized in order to get it.

**Mr. Guy Lauzon:** Are there are funds for that?

**Mr. Jean-Guy Rioux:** Yes.

**Mr. Guy Lauzon:** Thank you.

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

**Mr. Jean-Claude D'Amours:** May I ask a question, Mr. Chairman?

I know my colleague also had a question

**The Chair:** Yes, if he gets here on time.

**Mr. Stéphane Bergeron:** Do what you did for the vote the other day: you stretched the debate out to give him time to get here.

•(1025)

**The Chair:** We were thinking.

**Mr. Jean-Claude D'Amours:** Thank you very much for giving me your speaking time.

Mr. Rioux, in your presentation, you identified three items that shouldn't be forgotten; the third was the importance of court remedies in case of violation. This matter was addressed earlier. Did you bring subsection 77(1) to our attention because court remedies were hard to access when they were necessary? Were there any specific or general situations you wanted us to pay special attention to? I'd like to know your reasons.

**Mr. Jean-Guy Rioux:** There weren't any court cases on Part VII, but I'll turn the floor over to Mr. Rémillard.

**Mr. Rémond Rémillard:** Amended subsection 77(1) would clarify Part VII and make it possible to specify its binding nature.

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

I'll let my colleague have my time.

**The Chair:** Mr. Simard.

**Hon. Raymond Simard:** Thank you very much.

From reading the amendments, you no doubt noticed the concern of some people, the government in particular, over the obligation of result. The communities could often go to court, and it would be quite easy for them to accuse the government of not doing enough to achieve certain results.

Could you comment on this subject?

**Mrs. Diane Côté:** We never to go to court for the fun of it; we go to court to clarify certain matters. We don't believe that the amendments moved by the government would significantly reduce the scope or obligation to go to court. They change nothing.

We think that, under the current wording of Bill S-3, the government has an obligation to take action to promote the equality of the two languages and the development of the communities. Furthermore, again according to the wording, it reserves the right to make regulations to provide a framework for its work.

I therefore don't see that as an obligation of result as such. I see an obligation for the government to show that it has done its job, but I don't really see an obligation of result in the current wording.

**Mr. Rémond Rémillard:** I believe the analogy we heard from some witnesses, of the doctor who has an obligation to care but not to cure, is a very good one.

**The Chair:** It's an obligation of means, in other words.

**Mr. Rémond Rémillard:** To all intents and purposes, it's an obligation of care.

**The Chair:** In fact, our discussions in recent weeks have concerned the obligation of process, the obligation of means and the obligation of result. In this case, do you feel that Bill S-3, as it stands, provides for an obligation of means?

**Mr. Rémond Rémillard:** As I told you, it concerns an obligation of care. If we start a debate on semantics, we'll never be done with this. However, that's still the best analogy: it's really an obligation of care.

Then there's no guarantee that the official language communities will wind up in a perfect situation. The analogy clearly illustrates the principle and some of the obligations that follow there from. The courts would have considerable difficulty ordering that the communities be in a particular situation. It's not a matter of results-based management, where there are indicators and the communities are required to be equal. It's really an obligation of care, if you will.

**Hon. Raymond Simard:** Thank you very much.

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

Mr. Godin, do you have anything to add?

**Mr. Yvon Godin:** You have to beware when you use that analogy with health. Let's not forget that health care could be privatized, which would affect that obligation.

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

**Mr. Stéphane Bergeron:** Then it would be an obligation of process.

•(1030)

**The Chair:** That concludes our meeting. I'd like perhaps to mention to committee members that Mr. Ronald Caza will be with us on Tuesday, June 21.

**Mr. Stéphane Bergeron:** Will he be with us whether we meet or not?

**The Chair:** I assume that will be the case only if we meet. Otherwise, we'll postpone everything.

However, we're planning nothing for next Thursday, for two reasons: first, no one has confirmed their attendance for June 23; second, we may not be here. In fact, the real reason is that we found no one who could come on Thursday, June 23. That's quite difficult. However, someone will be here on Tuesday, June 21.

**Mr. Stéphane Bergeron:** It should also be pointed out that June 23 is the day before Quebec's Fête nationale or, for French Canadians, Saint-Jean-Baptiste Day.

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

**Mr. Yvon Godin:** Yes, but it doesn't last two days.

**Mr. Stéphane Bergeron:** If June 24 is a Saturday, we'll celebrate for three days.

**The Chair:** Thank you very much, Mr. Rioux, Mr. Rémillard and Ms. Côté, for taking the time to meet us, to answer our questions and to talk with us.

I want to thank committee members. See you next Tuesday.

**Mr. Jean-Guy Rioux:** And we thank you.

**The Chair:** The meeting is adjourned.

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