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Chair

Mr. Mike Wallace

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● (1105)

[*English*]

The Chair (Mr. Mike Wallace (Burlington, CPC)): I call to order the 13th meeting of the Standing Committee on Justice and Human Rights. Today we're going to deal with, as the order of the day, the order of reference of Monday, October 21, 2013, the statutory review of part XVII of the Criminal Code.

We have witnesses from the Department of Justice and from the Public Prosecution Service of Canada. This is a return visit. They were here last May, so it has been a while.

We have sent out letters to the provinces asking for their response and have received six back. I don't really expect any more at this point. The deadline is well past.

We appreciate your coming today. You may want to do a quick review for us, if you have an opening statement. Then there will be questions. I'm assuming you have copies of the letters from the provinces, so you may be able to comment on them. We'll go from there.

The floor is for whoever is speaking on behalf of the Department of Justice.

Michel, are you speaking?

Mr. Michel Francoeur (Director and General Counsel, Official Languages Directorate, Department of Justice): First will be Renée Soublière, my colleague. She will start the presentation. Then it will be Mr. Doyle. I'll do the third presentation.

The Chair: The floor is yours, Renée.

[*Translation*]

Ms. Renée Soublière (Senior Counsel, Litigation Coordinator and Supervisor, Official Languages Directorate, Department of Justice): Good morning. I am pleased to appear before you again to help you continue your review of the language provisions in the Criminal Code. As you know, I appeared here on May 27, 2013, when the committee began its review.

I would like to begin by introducing myself again. I am Renée Soublière, Senior Counsel and Litigation Coordinator in the Official Languages Directorate, which comes under the Public Law Sector of Justice Canada.

I am accompanied by Michel Francoeur, Director and General Counsel in the same directorate. Mr. Francoeur will outline the concrete steps taken by the Department of Justice in support of the Criminal Code language provisions. I am also accompanied by Robert Doyle, Chief of the Executive Secretariat with the Public Prosecution Service of Canada. Mr. Doyle also acts as the national secretary of the Federal-Provincial-Territorial Heads of Prosecution Committee and he will be able to answer any questions you may have about the implementation of the Criminal Code's language provisions.

To begin with, I would again like to describe the role that I play in the Official Languages Directorate, previously known as the Official Languages Law Section. I am part of a team of specialized legal counsel responsible for providing legal advice to the government on any issue of language law, especially with respect to the Canadian Charter of Rights and Freedoms, the Official Languages Act and the Criminal Code.

The team is also tasked with developing the position of the Attorney General and the Government of Canada in language cases that go before the courts. Finally, my team is also responsible for providing opinions and advice on language policies, particularly with respect to any proposed legislative amendments affecting language rights.

As such, it was the Official Languages Law Section, as it was then called, that developed the policy directions that lead to the passage of the 1988 Official Languages Act, including the amendments to sections 530 and 530.1 of the Criminal Code. As you know, those provisions give accused persons the right to a trial in the official language of their choice.

It was also in that capacity that my team, along with our colleagues in the Criminal Law Policy Section, helped developed the legislative amendments contained in Bill C-13, An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments), which was passed in 2008. I had the opportunity and the privilege to head up that projet and to participate in all of its stages, from developing the policy directions through the consultations to the drafting of the bill and its consideration in committee. I appeared before the Standing Senate Committee on Legal and Constitutional Affairs on November 28, 2007, when it began its consideration of Bill C-13.

I felt it was important to once again describe the role and mandate of the section in which I work so that you will understand the limits on what I can say here today. I will be pleased to discuss the provisions in part XVII of the Criminal Code, to provide you with the context for the 2008 amendments and to answer any questions you may have in that respect. However, my presentation today will not deal with either the implementation or the enforcement of the Criminal Code provisions, since my team does not play any role in that area.

With the committee's indulgence, I will start with a general overview of sections 530 and 530.1. I will then explain the origin and content of the legislative amendments adopted in 2008.

Before doing so, I feel it is important to highlight four points.

First of all, as former Justice Bastarache of the Supreme Court of Canada said in Beaulac, sections 530 and 530.1 of the Criminal Code perfectly illustrate the progression of linguistic rights through legislative means, in accordance with subsection 16(3) of the charter. In fact, the federal Parliament, in exercising its power over criminal law and the criminal justice system, adopted a number of legislative measures designed to extend the linguistic rights of the accused before the courts, including sections 530 and 530.1.

Secondly, I think it would be helpful to point out the purpose of section 530. Again, according to former Justice Bastarache in Beaulac, section 530 is designed first and foremost to grant equal access to criminal courts to accused who speak one of Canada's two official languages, in order to help official language minorities preserve their cultural identities.

Thirdly, bear in mind that the right of an accused to be tried in one official language or the other is not new. In fact, the right of an accused to be tried in the official language of his choice was initially recognized in the first Official Languages Act, in 1969. In 1978 and again in 1988, Parliament sought fit to broaden the scope of an accused's linguistic rights and to clarify the conditions of a criminal trial to take place in the language of the minority.

On January 1, 1990, the provisions I'm referring to, sections 530 and 530.1, came into force throughout the country. Since that date, any accused person facing criminal charges can therefore be tried in the official language of his choice, regardless of where he is in the country. In concrete terms, that means that the various jurisdictions in the country must be in a position to respond to applications for trial in a minority language and have the adequate institutional infrastructure to provide services in both languages equally.

Fourthly, the purpose of the 2008 amendments was not to change the provisions substantially. The main objective of the 2008 amendments was to clarify certain provisions, to codify the current state of jurisprudence and to make up for certain shortcomings that had been identified in the jurisprudence and studies on these provisions.

Let's now move on to the specific content of sections 530 and 530.1. What are the rights and corresponding obligations set out in these provisions? I don't know if you have the provisions of the Criminal Code in front of you, but it would be helpful for you to have them at your fingertips.

Let's start with section 530.

Subsection 530(1) stipulates that, on application of an accused whose language is one of the official languages of Canada, the judge may grant an order directing that the accused be tried before a judge or judge and jury who speak the official language of Canada that is the language of the accused, or if the circumstances warrant, who speak both official languages.

Subsection 530(2) covers a situation where the language of the accused is not one of the two official languages. In this case, the judge, on application of an accused, may grant an order directing that the accused be tried before a judge or judge and a jury who speak the official language in which the accused, in the opinion of the judge, can best give testimony or, if the circumstances warrant, who speak both official languages.

● (1110)

According to subsection 530(3), as amended in 2008, the judge before whom an accused first appears shall ensure that they are advised of their right to have a trial in the language of their choice.

Before Bill C-13 was passed, only an accused who was not represented by counsel had the right to be informed of this right. Therefore, the 2008 amendment imposed on the judge the obligation to ensure that any accused, be they represented by counsel or not, were advised of their right to request a trial in the official language of their choice.

Subsection 530(4) allows the court before which the accused appears to issue an order under subsections 530(1) and 530(2), when the accused has not made a request within the deadline set out in the code.

Subsection 530(5) specifies that an order under this section that a trial be held in one of the official languages of Canada may, if the circumstances warrant, be varied by the court to require that it be held in both official languages, and vice versa.

Lastly, subsection 530(6) covers cases in which two or more accused who do not speak the same official language are each entitled to be tried before a judge or judge and jury who speak their official language. In other words, they would be tried together, but under subsection 530(6), there may be circumstances which could justify holding a trial before a judge or jury who speak both official languages.

Before moving on to section 530.1, allow me to mention the fact that, in 2008, subsection 530.01(1) was added. Under this new provision, at the request of an accused whose official language is English or French, the prosecutor must translate those portions of information or an indictment in the official language of the accused, who has the right to receive the translated documents in a timely manner.

Before subsection 530.01(1) was added in 2008, only the preprinted forms contained in part XXVIII of the Criminal Code were given to the accused in both official languages. The sections that were filled in by the informant were drafted and provided to the accused in the official language of the person who had filled in the form. Some courts ruled that it was inconceivable that an accused should not have the right to obtain such important documents in the official language of their choice. Consequently, they required that these documents be translated at the request of the accused.

Adding this new provision to the Criminal Code, by way of Bill C-13, helped to reflect the state of jurisprudence.

Let's now move on to section 530.1 and let us look at the provisions it contains.

First, the accused, their lawyer as well as witnesses, have the right to use either language during the preliminary inquiry and the trial.

Second, the accused and their lawyer can use either official language at the pleading stage, and during the preliminary inquiry and the trial.

● (1115)

Third, the witnesses have the right to testify in either official language during the preliminary inquiry or trial.

Fourth, the accused has the right to have a judge presiding over the preliminary inquiry or trial who speaks the same official languages as the accused or, when a bilingual trial has been ordered, who speaks both official languages.

Fifth, the accused has the right to have the prosecutor—other than a private prosecutor—speak the same official language as the accused or, when a bilingual trial has been ordered, speak both official languages.

Sixth, the court must provide interpretation services to the accused, their lawyer and witnesses, during the preliminary inquiry or trial.

Seventh, the record of proceedings during the preliminary inquiry or trial must contain a transcript of everything that was said during those proceedings in the official language in which it was said, the transcript of any interpretation into the other official language, if proceedings were indeed interpreted, as well as any documentary evidence that was tendered during those proceedings in the official language in which it was tendered.

Eighth, the court must make sure that the judgment or the decision, including the list of reasons, is made available in the official language of the accused.

● (1120)

[*English*]

Allow me now to briefly explain the context behind the 2008 amendments.

The implementation of the language rights provisions in the Criminal Code had created from time to time some legal and practical difficulties, as demonstrated by the case law that had developed over the years. A number of reports and studies by different stakeholders had also confirmed the need to improve and clarify some of the language of trial provisions in the Criminal Code.

In particular, in November 1995 the Commissioner of Official Languages published a study entitled, “The Equitable use of English and French Before the Courts in Canada”. This study concluded with 13 recommendations for strengthening and advancing language rights in the courts, and particularly before criminal courts.

The Department of Justice's response to that study was to prepare a working paper. In November 1996 a document prepared by our section entitled, “Towards the Consolidation of Language Rights in the Administration of Justice”, was published and widely distributed.

This document basically responded to the commissioner's recommendations with a number of proposals to be used as a starting point for public consultations. It served as a basis for public consultations, which were held from November 1996 to April 1998. Then, in May 1999 the Supreme Court of Canada issued its decision in the Beaulac case, which related specifically to the language provisions of the Criminal Code at issue in our initiative.

The Supreme Court in Beaulac confirmed that there indeed were difficulties inherent in applying and interpreting those provisions. The Supreme Court made specific comments on mechanisms for publishing the language rights of accused persons, on the time allowed for exercising the rights set out in sections 530 and 530.1, and as well, on the application of those provisions in the context of bilingual trials.

As a result of the court's decision, our recommendations were re-examined and substantially modified to reflect the new state of the law. We held consultations again on the content of the proposed changes, and eventually the legislative proposals made their way into a bill along with other criminal law related amendments.

The amendments of 2008 to the language of trial provisions were therefore the fruit of a lengthy process involving many different players. Their main goal was to propose workable and balanced solutions to a number of problems that had been identified and to help ensure the effective implementation of the language rights provisions of the Criminal Code.

[*Translation*]

I know that after our appearance last May, your committee communicated with the provinces and territories to ask them to provide you with their input on the implementation of the linguistic provisions of the Criminal Code, notably the implementation of the 2008 legislative amendments. I know that you received some responses. I also understand that some provinces will be asked to appear before the committee. I am sure that this will be extremely useful to you.

Thank you for your attention. I will now give the floor to my colleague Mr. Francoeur.

[*English*]

Thank you.

● (1125)

The Chair: Mr. Francoeur.

[*Translation*]

Mr. Michel Francoeur: Thank you, Renée.

Thank you, Mr. Chair.

Ladies and gentlemen of the committee, first off, I think it is important to note that on May 27, 2013, around 10 months ago, I appeared before this committee with my colleague Ms. Soublière. We provided an overview of the administrative and financial measures taken by the Department of Justice to support the implementation of the provisions being studied, as well as the provisions that existed at the time of the amendments. I will briefly discuss these measures again later. I will also be able to give you more specific information about the measures taken, notably through subsidies and contributions.

First of all, it is important to remember that because of the division of legislative authority between the federal and provincial governments, the federal government has a limited role in the implementation of Criminal Code provisions. While the federal government has exclusive jurisdiction over amendments made to the Criminal Code, something Ms. Soublière discussed earlier, and over criminal procedure, the provinces are primarily responsible for prosecutions under the Criminal Code.

However, I would like to mention one difference. In the territories, criminal prosecutions are undertaken by the Public Prosecution Service of Canada. My colleague Mr. Doyle can speak to you about that later, if necessary.

The provinces and territories are responsible for the composition and organization of their criminal courts. This means that under the provisions currently being studied, the provinces must ensure that they have the institutional and human resources necessary within their justice system to allow defendants to face trial in the official language of their choice.

That said, working within its jurisdiction and within its means, the Department of Justice works with its provincial and territorial partners in order to support the implementation of linguistic obligations required by the Criminal Code.

The Department of Justice supports the provinces and territories through two initiatives: the access to justice in both official languages initiative and the Contraventions Act Fund.

The first initiative consists of two parts. The first part is financial. It is the Access to Justice in Both Official Languages Support Fund, which has a funding envelope of around $40 million and was renewed as part of the Roadmap for Canada's Official Languages 2013-2018. The second part is non-financial. It consists of collaborative activities and consultation with our governmental and non-governmental partners.

I would like to add something about the Access to Justice in Both Official Languages Support Fund. The 2013-18 roadmap, which was approved by the government and the Treasury Board in December, has three pillars: education, immigration and communities. In the area of justice, this fund is part of the roadmap, and its objective is to improve access to justice services in the minority language, but also to improve Canadian citizens' and legal communities' understanding of linguistic rights.

As an example, as part of the Access to Justice in Both Official Languages Support Fund, the Department of Justice set up a training program to help people working in the justice system provide services to Canadians in the official language of their choice, particularly in the area of criminal law.

● (1130)

[*English*]

The training component of the fund is there to help people who already work in the justice system to develop and improve their language skills.

To date, the support fund has financed professional development for various stakeholders of the justice system, including provincial crown prosecutors, provincial court clerks, probation officers, and members of the judiciary, among others.

One example of the training component of projects supported by this fund can be found in the applied language training program for provincially appointed judges sponsored by the Canadian Council of Chief Judges under the leadership of the chief justice of the Provincial Court of New Brunswick.

In addition to its financial contribution from the support fund, Justice has also played a role in the development of this program. Since 2010, for the four past years, Justice has worked with the Provincial Court of New Brunswick in the development of this program, including the development of teaching tools and the approach centred on real cases, moot courts, if you wish.

Since the rollout of this initiative in 2011, approximately 120 judges have attended the applied language training program.

[*Translation*]

Another concrete example of a project resulting from the fund is the establishment, in 2010, of the Centre canadien de français juridique or CCFJ, based in Winnipeg. The establishment of this organization allowed us to strengthen our institutional capacity to offer a larger range of training activities to various players within the legal system.

In this way, each province and territory can find francophone or francophile members within its legal system who are willing to take on specialized linguistic training in legal terminology. These are professionals who already have an understanding of French and who, through the Centre canadien de français juridique, can acquire and maintain knowledge and skills. They also build the confidence necessary to carry out their duties in the official language of the defendant when the defendant makes such a request as per section 530 and following of the Criminal Code. Furthermore, we have undertaken discussions to see if the same type of training activity could be offered to anglophone and anglophile members of the legal system in Quebec.

Then, there is the website jurisource.ca, created by the Association of French Speaking Jurists of Ontario, or AJEFO, and funded through our initiative. It was launched in the winter of 2013 for legal professionals working in official language minority communities. It brings together a variety of resources intended to help the justice system and its members offer legal services in both official languages.

I would now like to speak briefly about the collaboration and consultation activities involving the provinces and territories as well as non-governmental organizations.

For several years, there has been a federal-provincial-territorial working group, as well as an access to justice advisory committee, which have allowed for dialogue and collaboration. In these venues, one can raise questions, and discuss best practices, issues and challenges related to access to justice, including those that fall under the provisions of the Criminal Code.

There is also an advisory group that works with non-governmental organizations, notably but not exclusively with associations of French-speaking jurists. There is also the Fédération des associations de juristes d'expression française de common law.

I will now speak about what is called the Contraventions Act Fund, which was created to support the application of that federal law. Another objective of the fund is to provide better access to justice in both official languages. Then, there is the implementation of the federal ticketing scheme, which requires the department to ensure that the linguistic provisions of the Criminal Code are respected. The system set out by the Contraventions Act is an alternative to the summary conviction procedure set out in the Criminal Code for the prosecution of so-called federal regulatory offences. The goal is to simplify and streamline procedures, so as to make them less costly than if they had been undertaken under the Criminal Code system. Under that system, the procedure would in fact be more complicated, even if it were a summary conviction procedure as per part XXVII of the Criminal Code. It is important to know that the federal ticketing scheme is applied through provincial criminal systems, which are incorporated by reference into federal law, or by agreements signed with the provinces.

● (1135)

[*English*]

In 2001, in the case, Commissioner of Official Languages v. Canada, the Federal Court was asked to clarify the extent of language rights applicable to federal contraventions or statutory infractions. The case involved Ontario, the first province to implement the Contraventions Act. Today, that decision is the only decision on this issue.

In that judgment the court ruled that the federal government may use provincial offence schemes to prosecute federal contraventions, but in doing so it must ensure that all judicial activities and extrajudicial activities, those out of the courtroom, and the calibre of any services to the public in the courthouse or outside the courthouse relating to those federal contraventions, be provided in accordance with the provisions of the Criminal Code and the Official Languages Act. In other words, it's okay for Parliament to incorporate the provincial schemes into federal law, but it doesn't take away the duty of the federal government to ensure that the provinces, in the prosecution of the federal contraventions, respect or implement those language provisions of the Criminal Code and the federal Official Languages Act.

It's on that basis the contravention fund was created. It's a fund of $45 million over five years, approximately $9 million per year, funds which are allocated to the provinces that have an agreement with the federal government to implement or to prosecute the federal contraventions. Seven provinces and one municipality have signed such agreements. Five of them are receiving financial resources from that fund. Two of them, Ontario and Quebec, did not ask for funding.

The Chair: You're getting close to the—

Mr. Michel Francoeur: Yes. I will make one last comment.

The contravention fund is really there to support measures such as the hiring of bilingual judicial and extrajudicial court personnel, language training, bilingual signage, and documentation, etc.

This completes my presentation.

● (1140)

[*Translation*]

Obviously I would be happy to answer your questions, within the defined parameters.

Thank you.

The Chair: Thank you sir.

[*English*]

Mr. Doyle, it's your turn.

Mr. Robert Doyle (Senior Counsel and Chief, Executive Secretariat, Public Prosecution Service of Canada): Mr. Chair, I'll briefly summarize what I outlined in May. I may add a few things, based on how the provinces have responded.

Again, I'm the chief of the executive secretariat of the Public Prosecution Service of Canada, and the national secretary to the Federal-Provincial-Territorial Heads of Prosecutions Committee, which on occasion has dealt with the language provisions of the code and how to implement them.

I was also, for almost 20 years, on the the other side, the defence bar, representing mostly francophone clients throughout Ontario beginning in 1983 right up to 1998. It was mostly in eastern Ontario but also in places like Sudbury, Pembroke, Kingston, Brockville, and Toronto.

The one thing I did mention the last time but which I think I need to reiterate is the fact that when a person is charged, the main things they want are to make bail and to eventually get off from the charges that have been laid against them. For that purpose, they'll do anything they deem necessary to ensure that result, even if that means, for example, hiring a unilingual anglophone counsel if that person happens to be the expert in their area.

Usually when a person is charged or is arrested, they of course get to call their lawyer, and they're provided with a list of counsel who specialize in criminal law. They may or may not see a French name on the list, or they may see a name like mine, which is anglophone but the person is still bilingual. So they may or may not fall on someone who is bilingual.

The other thing of course is that they may have heard of an expert. In areas such as impaired driving or drug offences, for example, there are certain members of the local defence bar who are known to be knowledgeable in the area and of course are known to obtain good results for their clients. If that means they will not avail themselves of the rights that are afforded to them in part XVII of the code, well so be it. They'll just do it that way. As you know, a lot of francophones outside of Quebec speak passable or excellent English, and as a result it's no big thing for them to proceed in that language if that means having the best legal help available. Even when they do have bilingual counsel, they may still think it might not be a good idea to invoke the linguistic provisions of the code, because doing so might anger the judge or the system or something, and it might not be something that will produce a favourable result for them. That's one thing.

The other thing is something that was raised by James Cornish, the assistant deputy attorney general of Ontario, in a reply to the clerk of this committee. The manner in which the linguistic rights are communicated to the accused varies. I mentioned in May that there was an oversupply of bilingual judges and prosecutors throughout Canada, but as Mr. Cornish mentioned, these resources are not always matched with the demand. Obviously, one of the reasons is that a minority language speaker will retain anglophone counsel, but the other reason may just be that the expert is not in that locality, and the judge or the prosecutor and so on...and then we get some kind of a disconnect.

[*Translation*]

The main problem is matching available resources and demand, where there is demand. There still is not a comprehensive solution for this problem.

The other problem I would like to raise deals with so-called bilingual trials. Eastern Ontario and New Brunswick aside, it is quite rare that trials are held entirely in the language of the linguistic minority. The same is true for English trials in Quebec. The reason is quite simply that, often, the witnesses in a case, whether the police officer who made the arrest, the individual who carried out the investigation or eye witnesses, can be anglophone for the most part. Take, for example, a case that might take place in Brockville. If the accused is a francophone Quebecker passing through, they may be able to find a bilingual lawyer, but in the end the trial will be bilingual.

The trial may also be bilingual because there is more than one accused. Prosecution services tries to make sure that one case results in one trial. In other words, if a police raid results in the discovery of drugs and weapons, then there will not be a separate trial for each of the 30 accused. We will try to have one or two trials for all of the accused together. Some accused individuals invoke part XVII of the Criminal Code and demand that their language rights be respected but others do not, because their language is that of the majority.

How then does one manage issues such as objections to the admission of evidence? If, for example, an individual testifies in one language and then the prosecutor decides to object to what that witness said because it may be hearsay, or because of any other legally valid reason, how does the judge respond? How will other prosecutors, in other words the lawyers, assigned to this case respond and in what language will they do that?

These are all questions that have not been fully answered yet and that, in some cases, can lead to abuse. Often lawyers assigned to these cases are very bilingual, but it can happen that the colleague of a lawyer representing a francophone client will raise an objection in English and that, in order to participate in the debate, the lawyer for the accused will then speak English. The result is that the francophone accused no longer understands what is being said. It is hard to find solutions to these kinds of problems. One has to proceed on a case-by-case basis. It is therefore important, both for the judge presiding over the trial as well as for the prosecutor, to comply with the provisions of sections 530 and 530.1.

● (1145)

[*English*]

It's also important for crown counsel to adhere to specific policy directives that are supposed to guide how they're going to respond to a suggestion such as this. For example, the Public Prosecution Service of Canada currently has the federal prosecution service desk book, which is a thick binder of guidelines. There's a full chapter on bilingual or minority language proceedings. It tries to cover most of the situations that can arise in the course of a criminal trial, a preliminary hearing, or even a bail hearing. It tries to offer some direction or guidance as to how to respond to a given situation.

I just wanted to add these few things in light of what had transpired since May.

I'm open to questions, but basically, that's the statement I wish to provide.

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

Thank you to all our presenters. I know last year when you were here, we were cut off because of votes that we had to go to. You gave a very thorough overview today and we appreciate that.

We have some questioners for you. Our first questioner is Madame Boivin from the New Democratic Party.

[*Translation*]

Ms. Françoise Boivin (Gatineau, NDP): Thank you.

I would like to thank all three of you. I am very happy to see you again. I think maybe we are being a little more attentive than we were last time. When you last appeared, we knew we would have to go and vote and we perhaps did not listen as closely as we could have to what you said. This time, you have our full attention. However, I am not sure that I heard the answers I was hoping to hear this morning, but that is another story.

Mr. Doyle, I liked what you had to say. Our work is of a practical nature, let us not fool ourselves. We have to leave the theory of the Criminal Code sections behind. We are familiar with them, we have all read them. We want to see how they are applied. The mission of this committee is to see whether these sections have been properly implemented since 2008, if there are any problems, if changes need to be made, and so on. That is more or less the role that this committee has been given.

There are often horror stories in practice. Those who have practised law or who have challenged a case have these kinds of stories to tell. Yesterday, I was talking to colleagues about the time I challenged a ticket in Ontario. I asked for a trial in French but a mistake was made. Simply by listening to how my name was stated I knew that I was not in the right room. I should point out that this happened at the very beginning of the implementation of these provisions. Since then, I will concede that there has been a lot of progress. However, there are still some issues that need our consideration.

Ms. Soublière and Mr. Francoeur, perhaps you can respond to my concern about the Department of Justice. I realize that you have explained your mandate to us. Mr. Francoeur, according to what you stated, the Criminal Code falls under the federal government. We pass the laws and it is up to the provinces to use them. That is more or less what I have read between the lines.

Has any effort been made, have any meetings been held, or has any follow-up been done in order to see how this is unfolding? I did not get a sense of that when I was listening to you. You expected that this committee would do the work and that it would get answers. We have received answers from some provinces, and I am looking forward to receiving answers from the other provinces. We are not here to hinder the work of the provinces but to attempt to assist them. Have you taken any specific steps to see how section 530 and the following sections are being applied on the ground?

● (1150)

Ms. Renée Soublière: I will let Mr. Francoeur respond to part of this. I believe he mentioned a federal-provincial-territorial group that deals specifically with access to justice in both official languages. That is precisely the raison d'être of this committee. That is one way....

Ms. Françoise Boivin: Yes, but do you have any reports? Do you have anything that could supplement the information that we have? If I am not mistaken, five provinces have answered us to date.

Ms. Renée Soublière: Six.

Ms. Françoise Boivin: So there is still a lot of information missing. Perhaps that committee has been able to obtain it. Perhaps follow-up is being done, I do not know. I want us to be able to fulfill our role, but we are going to have to flesh things out.

Ms. Renée Soublière: Mr. Doyle can perhaps add to my response. The issue of bilingual juries is one that has been raised recently, and the committee is currently working on it. However, this issue does not stem from the 2008 amendments. In certain jurisdictions, there have been concrete difficulties in picking a jury of 12 perfectly bilingual people.

You said that the federal government is adopting these provisions and that it was up to the provinces afterwards. Well, part of my team's role in the department is to supervise the implementation of these provisions. We monitor the environment of official languages daily. We know of all major decisions tied to sections 530 and 530.1, we see them, we catalogue them. If there are problems....

Ms. Françoise Boivin: You currently know what is going on in each of the provinces and territories. As such you can give us some concrete information.

Ms. Renée Soublière: Yes, that is correct.

Ms. Françoise Boivin: It would be perhaps useful that you return another day to explain a little bit what is going on province by province, territory by territory. It would be perhaps more practical for the report we will produce.

Ms. Renée Soublière: Yes, indeed. It is true that not all issues are argued before the court, who would then hand down a decision. It was also useful for us to read the responses that you received from the provinces.

Ms. Françoise Boivin: Did the responses you received surprise you?

Ms. Renée Soublière: No, not really. In our view, these responses confirm that the implementation of the 2008 amendments has gone rather well.

Certain issues were raised. And we can talk more in detail later, if you would like.

● (1155)

Ms. Françoise Boivin: Do I still have time, Mr. Chair?

The Chair: No, thank you.

[*English*]

Monsieur Goguen from the Conservative Party.

[*Translation*]

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you, Mr. Chair.

I would like to thank the witnesses for having returned to testify, after their appearance in May of 2013.

Our mandate is to undertake a rather thorough review of sections 530 and 530.1 of the Criminal Code. As such, I would like to set some parameters. You will agree that this review does not apply to civil suits at all.

Mr. Francoeur, I appreciated your comments, which were the same as last time. Regarding sections 530 and 530.1 of the Criminal Code, our work seems to be fairly outdated. Last time, you said the following:

> [...] the federal government's role in implementing linguistic provisions in the Criminal Code is limited. While the federal government has exclusive jurisdiction over changes made to the Criminal Code and related procedure, legal proceedings under the Criminal Code fall primarily within provincial jurisdiction.

You will agree that the administration of justice requires the participation of various stakeholders, among them translators and stenographers. It is there that we seem to find the weakest link in the system. We have done fairly well when it comes to bilingual judges and prosecutors, but according to the responses obtained from provincial attorneys general, there seem to be some deficiencies in the translation of disclosure documents, in simultaneous interpretation and even in stenography.

Could you briefly explain the issue raised by the Official Languages Act and the linguistic provisions of the Criminal Code? What could we do to help provinces tackle these problems? Is it a question of funding translation studies programs? We cannot very well force people to take translation courses. Do we need grants? Should we fund, through the roadmap, the Centre de traduction et de terminologie juridiques at Université de Moncton and the Centre canadien de français juridique in Winnipeg?

Mr. Michel Francoeur: Thank you for your question. My answer also applies to the previous question asked by your colleague.

As I mentioned earlier, we have access to a $40-million fund to be spread over five years, which translates to an annual budget of approximately $8 million. Some years, the fund provides more money, and in other years, less. Since 2003, we have received many requests to fund projects from that envelope.

Mr. Robert Goguen: What is that fund called?

Mr. Michel Francoeur: It is called the Access to Justice in Both Official Languages Support Fund, a fund paid for under the roadmap. We are now in the third generation of the roadmap, following the first one from 2003 to 2008 and the next from 2008 to 2013. We are now wrapping up the first year of the 2013-18 roadmap.

The Department of Justice provides $40 million in grants or contributions to a wide variety of organizations, whether those be provinces, provincial tribunals, universities, legal terminology centres or French-speaking jurists associations.

As indicated by its name, the fund's goal is to support access to justice in both official languages, which includes access to interpreters, translators and stenographers. Funding has been provided over the last several years to improve the language knowledge and skills of various stakeholders working in the justice system, whether they be stenographers, translators, judges, crown attorneys or probation officers. These are significant financial measures.

Allow me to explain why I said that my answer partly applied to the question asked by your colleague, who said that Parliament was passing or amending Criminal Code provisions, sections 530 and 530.1 in this case, only to leave it up to the provinces and territories to manage or implement them. Your colleague seemed to be saying that the federal government was not doing anything more. I must clarify that the Access to Justice in Both Official Languages Support Fund, a $40-million fund, is paid out on top of the $45 million for the Contraventions Act Fund. There is also the federal-provincial-territorial working group.

● (1200)

Mr. Robert Goguen: Is there a more direct and more practical method? We are hearing about funding and money, which is all well and good, but there is a shortage of simultaneous interpreters. How can we attract more people to this area of work? There are lawyers, judges, and defence attorneys, but there seems to be a shortage of interpreters. What incentives could they be offered? How are they trained? There does not seem to be a consistent pan-Canadian legal translation program. I am told that the Ontario model serves as an example. Is that so?

Mr. Michel Francoeur: I will ask my colleague Mr. Doyle to answer that question, as he is in a better position to do so.

Mr. Robert Doyle: This problem was raised by the Federal/Provincial/Territorial Heads of Prosecutions Committee. The problem does not exist in major centres, no matter what province we are talking about. In Saskatoon, it will not be difficult to find an interpreter, but in Carrot River, Saskatchewan, it will be more difficult.

There is funding for travel costs in the case of judges and lawyers. As for defence attorneys, they can generally be found on site. But interpreters living in major centres are often unwilling to travel. As a general rule, provincial contracts do not include provisions making it mandatory for them to do so. Many of them do not live in the same towns in which some trials are taking place, or do not wish to travel to those towns. These are problems that have surfaced in the regions.

Mr. Robert Goguen: Is that because their travel costs are not being reimbursed?

Mr. Robert Doyle: It is just that they simply do not want to travel. When we have a contract on offer, they reject it one after the other.

This is entirely provincial jurisdiction. The contracts would have to stipulate that they must travel when required, end of story, just as the judges and attorneys do.

The problem does not come from translation and interpretation schools that train these people. Thanks to the funding support, I think these schools are training enough people. The problem is that once they get a contract, they prefer to remain in the major centres to be closer to their families, among other things.

Criminal trials are increasingly lengthy. Interpreters are not simply travelling for a few days, as in travelling for one day, spending a second working at the trial and the third travelling home. They have to leave for three weeks, sometimes a month or even more. This is what makes it difficult at times to force people to travel.

[*English*]

The Chair: Thank you for those questions and answers.

Our next questioner is Mr. Casey, from the Liberal Party.

Mr. Sean Casey (Charlottetown, Lib.): I heard Madame Boivin's concern that we're mandated to do a comprehensive review and we've heard from less than half of the provinces and territories. I was interested in your response, Madame Soublière, that you have a mechanism in place to monitor all of the judicial pronouncements in connection with this section.

We're fortunate to have someone in your unique situation, Mr. Doyle, having represented francophone clients in a defence context and having now gone over to the dark side. My question is for you because you didn't get a chance to respond to Madame Boivin.

In your experience on both sides, can you allay my concerns that we haven't heard from half the provinces? Are there things that are bubbling up from those who work under you that we haven't seen in the five or six letters that have come forward?

Mr. Robert Doyle: I don't believe so.

For example, Prince Edward Island does not have bilingual prosecutors so they call on either the Public Prosecution Service of Canada, our Moncton office where all our prosecutors are bilingual, or the New Brunswick prosecution service, a provincial service. Therefore, whenever there is a trial that has to be conducted in the French language in P.E.I., either the feds or the New Brunswick prosecutors handle it.

Lately it's been mostly us and we have not heard of instances where issues surfaced. I can imagine it would be a problem if they wanted.... That's why we have this federal-provincial working group on the access to justice that's working on jury trials.

We have seen situations, such as those that surfaced in British Columbia a few years back, where someone wanted a trial in French and elected trial by jury, knowing that the system would not be able to respond, therefore hoping that eventually the charge would be withdrawn or stayed. That's something I have seen.

I'm a member of that subcommittee, and it's something the court administrators have mentioned to us. They've said they have not run into problems yet, but they can see that they would because they would not be able to find 12 good citizens who would be sufficiently bilingual to handle a case like that.

There are very few areas in the country where it would happen, because B.C. has adopted the policy of centralizing jury trials in one jurisdiction. I think it's Surrey but I may be mistaken. In any event, all bilingual jury trials will go there and the province will pay the cost of moving people there so they don't have to find local citizens in northern B.C., where there just aren't any.

The interpreter situation is another one that's been.... But it has been mentioned that those who have responded.... Again, Newfoundland, at the heads of prosecutions table, has said that there could be problems in Labrador. There have not been so far. They can provide the judge and the prosecutor, but they are not so sure about court personnel, and they might have to....

Then again, all these various actors are members of a federal-provincial group. They can call on each other for assistance in situations like that, so they're confident that they could respond, but then again, if it's a jury situation, maybe not and that's the thing.

Of course, obviously all the details that stem from trying to run a bilingual trial, where most witnesses are in the majority language but the accused wants a trial in a minority language.... For example, for a preliminary hearing, there is no defence evidence and only the crown presents evidence. Obviously that preliminary hearing is mostly going to be run in English, because often all the witnesses are going to be anglophones. It's not really different from providing interpretation to a Polish speaker, because obviously the system has to ensure that the accused understands the proceedings. Except for submissions by counsel, there wouldn't be a lot going on in French in that kind of a situation.

● (1205)

The Chair: There's time for one more quick question, Mr. Casey, if you have another one.

Mr. Sean Casey: It's interesting that your first example was from my home province. There is no shortage of bilingual lawyers in the province. The ones who practise the most *en français* are the ones who are employed at the national headquarters of the Department of Veterans Affairs, because they're constantly having to present in both languages.

One of the issues that is raised in one of the letters here is whether the rights under section 530 extend beyond trial to bail hearings, and I would also add appeal hearings.

I understand from the letter that is their practice.

Is it legislated, or is it just good practice, and should it be legislated?

● (1210)

The Chair: Who would like to answer that question?

Mr. Michel Francoeur: One of the letters indeed deals with the issue of interim release with that province asking for clarification as to whether that is part of the trial. There is case law to the effect that indeed it is part of the trial. Maître Soublière could add to that.

There is also the issue of the full disclosure of evidence, the case law. So far it has been clear that there is no language right, or there's no requirement to translate the full disclosure of evidence. That being said, there can be cases where principles of natural justice or fundamental justice may require translation, in whole or in part, of the disclosed evidence.

But that's not a language right. It's a universal right that would apply to any language. It is not limited to the French and English languages. It's like the right to an interpreter, if you wish. It is not only for the French and English languages. It's a right that exists for all languages spoken by people, be they accused or witnesses, if they cannot speak one of the two official languages.

I'll let my colleague Maître Soublière—

The Chair: Please be very brief, if you have more to add.

Ms. Renée Soublière: On the issue of....

A voice: Interim release.

Ms. Renée Soublière:I would like to address the issue of disclosing evidence. I think you mentioned, over and above the issue of the availability of interpreters and stenographers, a lack of resources to have disclosed documents translated. Saskatchewan mentioned the problem as well.

I would like to say that this aspect of the letter surprises us somewhat. As my colleague has just explained, case law from before 2008, as well as after 2008, demonstrates that there was never a language provision that confirmed or granted the accused the right to obtain translated disclosed documents under the obligation established in the Stinchcombe decision.

Of course, in some provinces, it is done. I know that in Quebec, some courts have ordered a translated summary of the evidence, not on the basis of linguistic rights, but rather on the basis of fairness. This has created a precedent, although it is not based on language rights.

[*Translation*]

Mr. Robert Goguen: Since the Stinchcombe decision, some parties have used it as a defence ploy, to delay the process.

[*English*]

The Chair: I've given her lots of flexibility.

Do you have an answer to Mr. Casey's question?

Ms. Renée Soublière: Yes.

What I was going to say was that you're absolutely right. As the law now stands, only proceedings at the preliminary inquiry and trial are subject to the language of trial provisions of the Criminal Code.

This being said, we know that in certain areas of the country, in some jurisdictions, other applications are being held in the minority language. There is the case of R. v. Bauer in Ontario in which the court said that yes, these provisions will apply to peace bond proceedings, for instance.

In Nova Scotia, in the case of R. v. Schneider, which was an adjournment request, the courts allowed Ms. Schneider...or extended the application of the Criminal Code provisions to those circumstances.

The Chair: We'll have to move on. Thank you very much for those questions and answers.

Mr. Dechert, from the Conservative Party.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you to our officials for being here today.

A number of you have mentioned the response letters which the committee has received from the various provinces and territories. I have a couple of questions about those.

First of all, do you have any general comments about what you heard from these various provinces and territories? Are you seeing any similar types of issues arising across the country, or are they simply unique situations in a few provinces?

Any general comments you have about the responses would be fine.

● (1215)

The Chair: Who would like to answer that question?

Mr. Michel Francoeur: Perhaps I can give some reaction.

In reading the six letters, there are some common issues that are raised or non-issues that are mentioned. For example, in a few letters they simply say that generally speaking, there are no significant or major problems. However, this is not to say there are no issues. Of course, they talk about interpreters, translators, *les sténographes*—I forget the word in English. Many of them say there are few demands for trials in the language of the minority. Again, this is on the basis of six letters out of a possibility of thirteen.

Many of them also mentioned that the amendment in subsection 530(3), which requires that the judge ensure that the accused is informed of his right to a trial in the language of his choice at his first appearance before the court, is a useful one. In some provinces, for example, I think it's in Saskatchewan, they produce a script which every judge will read out to the accused at his first appearance.

In Ontario they say the application varies. Sometimes it's the judge, sometimes it's the prosecutor. That duty is being implemented, although they do say that not only does it vary in terms of who ensures that the duty is met, but the implementation of that provision is not done across the board. I understand there are still cases where subsection 530(3) is not, I guess, fully implemented.

When I talked about the script, it wasn't Saskatchewan, it was Yukon. Sorry about that. The other thing as well is that Saskatchewan asked for clarifications, and we addressed those earlier.

In the case of Ontario, I did mention the fact that over and above the fact that the way subsection 530(3) is implemented varies and that it's not necessarily across the board, they did say that more efforts are needed, more work is needed. As you may know, they have a committee, in fact, two. The second one is now working on more measures, more specific action, to ensure a full implementation of sections 530 and 530.1. So Ontario does acknowledge that a lot has been accomplished, but there's still work to be done to improve those provisions, and a committee has been assigned to that task.

Mr. Bob Dechert: If I could interrupt you, you mentioned the Ontario response. They did point out a potential amendment to the legislation. Do you have any comment on that?

Ms. Renée Soublière: I do. I remember seeing this letter, and in fact, if you look at the case law, it's not a problem. No, it's not a problem.

Mr. Bob Dechert: Okay. They mentioned they had never actually seen this problem—

Ms. Renée Soublière: No, exactly.

Mr. Bob Dechert: —arise in practice, but they thought it might. But in your opinion, no amendment is necessary.

Ms. Renée Soublière: No, the case law is pretty clear. When there's an order for a trial, whether it's a bilingual trial or a trial in the official language of the accused, the prosecutor and the judge must use that language almost exclusively. So it's not an issue.

On the Ontario letter, we were quite surprised, or happy I should say, because that was the purpose of the amendment, to extend the right of the accused to all accused, the right to be advised. So, yes, the purpose was to extend this right to all accused, but the purpose was also to allow for this flexibility to exist on the different ways that we can inform accused persons. In Ontario, it confirms that, yes, we appreciate having this flexibility. In some cases, it will be oral, it will be done by the judge. In other cases, it will be a printed notice that's handed out to the accused, or defence counsel will ensure that....

Yes, that's all I wanted to add.

● (1220)

Mr. Bob Dechert: Thank you very much for that.

The Chair: One last quick question.

Mr. Bob Dechert: With respect to Saskatchewan, first of all, I would say that I'm also surprised that they're having problems with resources, given that I understand the economy of Saskatchewan is doing very well these days. Presumably the Government of Saskatchewan has resources to put towards their obligations in this regard. They mention the relatively small number of bilingual prosecutors, judges, and court officials that might result in a delay in French bail hearings, and that's obviously a concern.

What is your comment on that? What part of that is a federal responsibility? What would you recommend be done about that to improve that situation?

Ms. Renée Soublière: It kind of comes back to the question raised by your colleague. Bail hearings per se are not covered by sections 530 and 530.1. I was happy—

Mr. Bob Dechert: Would you suggest that they should be, that the amendment—

Ms. Renée Soublière: That issue came up when we were consulting the provinces prior to Bill C-13. We decided that to extend at that point was not a good idea basically because provinces were telling us that they still had problems ensuring a full implementation of the current language regime, so they didn't want us to extend at that point in time. The plan was to help the provinces and help the different stakeholders, for example, with the funds that Maître Francoeur has talked about, the support fund.

Mr. Bob Dechert: Thank you.

The Chair: Thank you very much.

Mr. Godin from the NDP, the floor is yours, sir.

[*Translation*]

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

Welcome to the committee.

I am not a regular member of this committee. I dare say that I am not a lawyer either. Lawyers generally like to tell you that they are practitioners of the law, but I am telling you that I am not. I am a regular member of the Standing Committee on Official Languages, and what is going on these days matters to me.

I would like to read an excerpt from briefing notes prepared by the Library of Parliament's employees. At issue is the language spoken by the accused and part XVII of the Criminal Code:

> The power to legislate in the area of official languages was not formally enshrined in sections 91 and 92 of the Constitution Act, 1867. It is an ancillary power related to the legislative authority of Parliament and the provincial legislatures over the fields assigned to them. Parliament has jurisdiction over the criminal law, and in 1978 it approved part XVII (language of accused) of the Criminal Code. The then Minister of Justice clearly stated the purpose of the original wording of the provisions of part XVII:
>
> > It seems to me that all persons living in a country which recognizes two official languages must have the right to use and be understood in either of those languages when on trial before courts of criminal jurisdiction.

I am sure we can agree that for some provisions of the Criminal Code, provincial courts have jurisdiction. I noticed that you never mentioned Alberta. I do not know whether that was deliberate. I am not accusing anyone; you are not in the dock.

Ms. Renée Soublière: I believe Alberta has not responded.

Mr. Yvon Godin: Absolutely, and that is why I want to come back to this.

● (1225)

Mr. Michel Francoeur: Actually, it did respond.

Ms. Renée Soublière: It is true, it did respond.

Mr. Yvon Godin: Alberta responded?

Ms. Renée Soublière: Yes, it stated that there were no real issues. I have the letter in front of me.

[*English*]

It says, “Generally speaking we are not having any difficulty meeting” the 2008 amendments.

[*Translation*]

It is a very short letter.

Mr. Michel Francoeur: If I may, I would like to specify that the province mentioned only one problem. At the end of the letter, it mentions transcribers.

Mr. Yvon Godin: I do not agree with that. I think it would be relevant to provide some examples. You must be familiar with the Caron case in Alberta. There was also the case of a man from Tracadie-Sheila, in my riding, who found himself before the courts without having been informed of all of his rights. Unless I am mistaken, you stated that it was the judges' responsibility to inform accused persons of their right to be heard in the language of their choice. This man from Tracadie-Sheila found himself before an English-language court, and his trial took place in English. When he challenged this and asked for a trial in French, the judge replied that he believed the accused was proficient enough in English for the trial to be held in that language and that everything had gone well. Who is he to make that call?

This case posed such a significant problem that the Commissioner of Official Languages conducted an investigation. If I remember correctly, his finding was surprising: it was as though the law did not protect the accused. However, that is not what you just told us. You stated that individuals have a right to a trial in the official language of their choice no matter where they are in Canada. This right does not date back only to 1978. I do not want to hear about the $40 million or $60 million that were provided in funding; I want to talk about the law.

Earlier, I deliberately mentioned that I am not a lawyer. I am a regular Canadian with no training as a lawyer. If I were to find myself before the courts, the judge would decide whether I go to jail. We are talking here about courts of law, not about whether a province should decide whether trials should be held in English or in French. There are two official languages in our country, and it is subject to the Criminal Code of the federal government.

I can provide you the documents of this case where the judge told the accused that he believed the accused was sufficiently proficient in English and the trial would go ahead, and then he sentenced the accused to four years in jail. This was so problematic that the Commissioner of Official Languages conducted an investigation into the case.

I would like to know your opinion on that. What went wrong in the case?

Mr. Michel Francoeur: My colleagues can add to my response as I am not completely familiar with the case. However, it appears clear to us that the Criminal Code clearly states that every accused has the right to a trial before a judge, a crown attorney and a jury who speak the same official language as him or her. These rights are very clear. If a court misreads, misunderstands or misinterprets these provisions, it is up to the accused and his or her counsel to determine what the next step should be to ensure this right is respected. In some cases, they will appeal the decision.

Mr. Yvon Godin: I see, Mr. Francoeur. I just want to make sure I have understood correctly. Does this also apply to a criminal court under provincial responsibility?

Mr. Michel Francoeur: Yes, definitely.

Mr. Yvon Godin: So you are confirming that the accused has the right to be heard by a judge speaking his or her language.

Ms. Renée Soublière: Yes, that is correct.

Mr. Michel Francoeur: That is correct, whether judges are appointed provincially or federally.

Mr. Yvon Godin: We will have to make sure we send the transcript for this meeting to the Commissioner of Official Languages, given what he was told by the federal Department of Justice.

Mr. Michel Francoeur: Sections 530 and 530.1 of the Criminal Code clearly set out the right to a trial before a judge, a prosecutor and a jury who speak the same official language as the accused.

Mr. Yvon Godin: Mr. Doyle, earlier you stated that Canada has many bilingual judges.

Mr. Robert Doyle: Yes, that is true.

Mr. Yvon Godin: Is that really the case?

Mr. Robert Doyle: Yes, we do have enough.

Mr. Yvon Godin: All across Canada?

Mr. Robert Doyle: Yes.

Mr. Yvon Godin: In every province?

Mr. Robert Doyle: Yes, in every province.

Mr. Yvon Godin: Are there enough bilingual judges in the appeal courts?

Mr. Robert Doyle: Yes, there are.

Mr. Yvon Godin: So there is no problem?

Mr. Robert Doyle: The problem is in the matching. Often, it is difficult to match the capacity of the system to the need. Needs appear where there is a lack of capacity.

Mr. Yvon Godin: I see. Let us consider, for example, British Columbia. It is possible that there are no bilingual judges in Prince George, but there are some elsewhere in British Columbia, in Vancouver, for example. Is that correct?

Mr. Robert Doyle: Yes.

Mr. Yvon Godin: Perfect, that supports the need for my bill regarding the appointment of bilingual judges to the Supreme Court of Canada. Thank you very much.

Some members: Oh, oh!

Ms. Françoise Boivin: I could see where you were going.

Ms. Renée Soublière: If I may, based on the wording of sections 530 and 530.1, they do not apply to appeals.

Mr. Yvon Godin: No, I was referring only to the number of bilingual judges. I am satisfied with the answer, thank you very much.

Ms. Renée Soublière: I see.

I would like to come back to a point you raised and specify that the Supreme Court, in the Beaulac decision, found that the proficiency of the accused in the other language is not relevant in any way. The accused may exercise his or her right and request a trial in French even if perfectly bilingual.

Mr. Yvon Godin: I understand that.

Ms. Renée Soublière: In the Beaulac case, various appeal courts had dismissed the applications for a French trial, and the dismissals rested exclusively on the fact that Mr. Beaulac understood English. The Supreme Court clearly found that this factor was not relevant in any way.

● (1230)

Mr. Yvon Godin: Everyone aside from us says so as well.

[*English*]

The Chair: The good news, Mr. Godin, is if you commit a crime in any province, we'll get you a trial judge in French.

Voices: Oh, oh!

Mr. Yvon Godin: I'm happy to hear that.

The Chair: We have no more questioners and we have another item here.

I want to thank the witnesses for coming today. We had you back after a year. I appreciate the extensive presentations you gave today on the issues and answering the questions. We will be dealing with this in the next number of weeks. There is a possibility you will be called back based on if we get input from other provinces and so on. I want to thank you for that.

Just so the committee knows, these officials were our witnesses for today. We have set aside next Tuesday to continue this study. Let's be frank. We have asked so far those six provinces that have submitted. None of them are terribly interested in being witnesses. They don't have anything more to say. They have said to the clerk that basically their letters speak for themselves, that they really don't think it would be useful.

We haven't heard from the other seven, the rest of the provinces and the three territories. You could ask us to follow up one more time with them.

Just as a reminder, you had other witnesses or at least the New Democrats had other witnesses last time. We have next Tuesday set aside. Thursday's meeting is cancelled because we have the presentation in the House from our special guest, the Aga Khan. Next Tuesday is available for witnesses. If you have some witnesses you'd like to see for next Tuesday, please let the clerk know and we'll work on that.

Next Thursday, the 6th I believe it is, the minister has offered to come here to talk about supplementary estimates (C), the estimates which we normally should do. Since he's available that day, I have made the executive decision that we will have him for the first hour on March 6, and then we'll have officials for the second hour, if we need them for the full time, to talk about supplementary estimates (C).

Then there will be a two-week break. When we come back from the break, we will decide either to proceed with some suggestions, or a report, or if we need to see more witnesses. I think we can have that discussion at the end of next Tuesday's meeting, if that's okay. Is everybody okay with that?

Sounds good.

Mr. Yvon Godin: On a point of order, Mr. Chair, there is no such thing as an executive decision.

Voices: Oh, oh!

The Chair: This is true. A decision was made. The minister offered to come.

That is part one today.

The second part is I need a motion regarding the second report of the subcommittee on agenda. It's been moved and it's carried.

With that, a reminder that we won't see you until next Tuesday.

Thank you very much.

The meeting is adjourned.