



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 055 • 2nd SESSION • 41st PARLIAMENT

EVIDENCE

Thursday, November 27, 2014

—
Chair

Mr. Mike Wallace

Standing Committee on Justice and Human Rights

Thursday, November 27, 2014

• (1535)

[English]

The Chair (Mr. Mike Wallace (Burlington, CPC)): Order.

This meeting is being videotaped. As our friends here know, this is treated as a regular committee meeting where they focus in on those who are speaking.

This is the Standing Committee on Justice and Human Rights, meeting number 55. Pursuant to Standing Order 81(5) we're dealing with the supplementary estimates (B) this afternoon. We have a number of guests with us, but for the first hour I want to thank the Minister of Justice, the Honourable Peter MacKay, for rearranging his schedule, which I know he did to be able to be here today.

Minister MacKay, the floor is yours for an opening statement and then there'll be a round of questions.

[Translation]

Hon. Peter MacKay (Minister of Justice and Attorney General of Canada): Thank you, Mr. Chair.

Colleagues, thank you for the opportunity to speak before you today.

[English]

I am pleased to be this afternoon with this esteemed committee to answer questions regarding items in supplementary estimates (B) as Minister of Justice and Attorney General.

This is my 50th appearance before a parliamentary committee. Joining me today are deputy minister William F. Pentney, associate deputy minister, Pierre Legault, and, senior assistant deputy minister of policy, Donald K. Piragoff.

This has been a busy session. We have three bills that have passed through Parliament. We have three more that are approaching that stage, six in fact when we consider some that are just beginning the process, six or seven more that are in the queue, and 13 private members' bills.

[Translation]

As Minister of Justice and Attorney General of Canada, I am tasked with helping ensure a fair, relevant and accessible justice system for all Canadians.

[English]

A continuing priority and challenge for all of us involved in the justice system is to ensure that all Canadians have access to justice in a timely and meaningful way. I believe this is certainly a sentiment

shared by you and participants in the justice system across the country.

Governments in all jurisdictions have obligations in tackling this through multiple initiatives. At the federal level we have been providing ongoing funding for programs to provinces and territories to promote access to justice. Mr. Chair, colleagues, the Department of Justice funded and supported the work of the national Action Committee on Access to Justice in Civil and Family Matters, which brought together major stakeholders throughout our system.

The DOJ continues to promote access to family justice by working closely with its provincial and territorial colleagues. I would share with you that I recently attended the annual FPT meeting this September, and it is certainly a sentiment shared by my provincial and territorial colleagues that we continue to improve on this system. People are very motivated, as is the bench.

To that end we've renewed the funding, the grants and contributions available for supporting families experiencing separation and divorce initiatives, for three years. With this renewed funding provinces and territories can access up to \$15.5 million annually for the next three years for family justice services that include mediation and support enforcement services. Non-governmental organizations can also access up to \$0.5 million annually to help them inform separating and divorcing families about family law. This is a big issue, particularly given the number of unrepresented persons now in our system.

Funding for federal activities under this initiative was also renewed for two years. These activities support the department's mandate with respect to federal family laws and provide legally mandated support enforcement and divorce registry services to provinces and territories, and to all Canadians.

This initiative funds many services and projects that make it easier for separating and divorcing families to access the family justice system, as well as ensure that parents comply with their obligations under family law. An evaluation this year concluded that the initiative achieved its objectives in promoting access to the family justice system for Canadian families. I am pleased to see that we are having measurable and tangible progress, and we hope to replicate this across the entire system.

[Translation]

In addition to promoting access to the family justice system, our government's efforts also include two major initiatives funded under the Roadmap for Canada's Official Languages 2013-2018 to develop and enhance the vitality of official language minority communities and promote linguistic duality in the justice system.

• (1540)

[English]

The Department of Justice also promotes access to justice through our justice partnership and innovative program, which provides resources for projects that address access to justice, family violence, public legal education and information, and violence against aboriginal women and girls. This department plans to transfer \$1.26 million earmarked for contributions from this program towards grants.

Mr. Chairman, I know you follow this type of activity very closely. This transfer is a positive move that will reduce the administrative burden on the public legal information organizations and non-governmental organizations. Ultimately, it will make it easier to access funding using a high-risk based approach and ensure that the justice system remains accessible, efficient, and effective.

On the issue of legal aid, at the federal-provincial-territorial ministers meeting I referenced, my colleagues and I reiterated our commitment for continued collaboration to strengthen legal aid and the justice system for Canadians. In these supplementary estimates, the total annual federal funding has increased by \$14.4 million for 2014-15 to 2016-17. This comprises funding for immigration and refugee legal aid, court-ordered counsel in federal prosecutions, and program operations.

[Translation]

Part of ensuring access to justice is ensuring that Canadians are protected and that our streets and communities remain safe.

Our government is moving forward with several criminal justice initiatives in order to keep our citizens safe. It is indeed the foremost responsibility of any government.

[English]

One of these initiatives is the aboriginal justice strategy, which was renewed in budget 2014 at \$22.2 million over two years. This program, operated on a cost-shared basis with provinces and territories, supports community-based justice programs that have been proven to be effective in reducing crime and providing alternatives to incarceration for less serious crimes in appropriate circumstances.

We also continue to work through the Department of Justice's youth justice fund to encourage a youth justice system that is fair and effective. This fund offers grants and contributions to various organizations. While demand for grants to support small-scale projects has declined in recent years, the demand for contributions to support multi-year pilot projects continues to increase. I can give you a number of examples, particularly in urban settings: the guns and gangs initiative, drug treatment, mental health treatment, and, particularly important for prairie provinces but I would suggest across the country, programs aimed at addressing the effects of fetal

alcohol syndrome disorder. To meet the growing demand of these requests, Mr. Chairman, we are transferring \$600,000 from the fund's grants funding to contribution funding, so that it is better able to meet the current needs of our partners.

Another one of these initiatives to keep our citizens safe was in response to the Bedford decision. Members here will recall when the Supreme Court struck the three major sections on prosecution last December. The government took steps to protect our communities, vulnerable people, and those involved in this inherently dangerous activity by focusing police resources on the consumers and the perpetrators.

I'm pleased to say that Bill C-36, the Protection of Communities and Exploited Persons Act, will come into force next week. I want to take this opportunity to thank this committee for their attention and the fact that you reconvened the committee over the summer months to focus on this important issue. Through this bill we're ensuring that the laws protect those who sell their sexual services and prosecute those who exploit them. This bill will protect communities as well from the harms of prostitution, and reduce, we hope, the demand for sexual services.

In addition, the justice and public safety departments will be providing support for exit strategy programming for those involved in prostitution. That amount, as you know, is \$20 million. There will be more to put forward in the coming days about how to enhance such things as education, job training, helping with child care, counselling, and mental health and addictions. All of these figure prominently in this complex problem.

Mr. Chairman, our government has also continued to move forward on new initiatives that ensure that victims of crime are treated with the courtesy, compassion, and respect they deserve. For example, over the past seven years, we have designated more than \$140 million to give victims a more effective voice through initiatives delivered by the Department of Justice. This amounts to money allocated to the Department of Justice's victims fund, a grants and contributions program that provides funding to provinces, territories, and non-governmental organizations whose projects, activities, and operations support the objectives of this fund.

We also work closely with other departments; Public Safety, as I mentioned, but certainly Labour and the minister responsible for the Status of Women.

• (1545)

Mr. Chair, other initiatives include, as you are aware, the victims ombudsman's office, which is key to enhancing victims...and include a strategy of \$10 million to support the child advocacy centres set up across the country.

I can table more information with respect to these advocacy centres, but suffice it to say that this is, I think, one of the most compassionate initiatives we have undertaken in decades, which goes directly to the effort to lessen the harms that inevitably flow from child sexual abuse. This work, which is being done in some 22 centres now across Canada, is having a profound impact of improvement upon our justice system, vis-à-vis this devastating problem of child abuse. In my time as Minister of Justice, the child and youth advocacy centres are the most impressive initiative I have seen.

Mr. Chair, other important priorities for the government for protecting Canadians include combatting impaired driving, still the number one cause of criminal death in Canada. To that end, I remain committed to bringing forward legislative initiatives to modernize and strengthen impaired and drug-impaired offences as they pertain to provisions of the Criminal Code.

In conclusion, all of this is to say, Mr. Chair and colleagues, that the money that has been allotted to our department has been well used and is accounted for.

[*Translation*]

To conclude, I would like to thank you and your committee members for the important work you do, and for giving me the opportunity to make these opening remarks.

The funding that the Department of Justice portfolio has received has brought results for Canadians, and I will do my utmost to ensure that these funds will continue to be spent wisely.

I now look forward to taking your questions.

Thank you.

[*English*]

The Chair: Thank you, Minister. You can introduce your guests, if you need to, during question period.

Madame Boivin, the time is yours.

[*Translation*]

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

Mr. Minister, thank you for agreeing to change the date of your appearance before our committee so that we can study the votes allocated to your department under supplementary estimates (B) 2014-15.

Before getting to the heart of the matter, I would be remiss if I didn't share my thoughts with you about today's top news. As a result, more people are probably following our committee today than on many other occasions when we deal with various topics. I am talking about the appointment made to the Supreme Court of Canada to fill the position of Justice Lebel, who is retiring. Let me also take this opportunity to commend him for all his years of service. As a lawyer from Quebec, I am proud of the work accomplished by Justice Louis Lebel over the course of his career.

He will be replaced by Suzanne Côté. This is the first time I have seen a lawyer directly appointed to the Supreme Court. It is not common, but it is interesting. I am very pleased that you have finally agreed to appoint a woman to the Supreme Court of Canada.

Congratulations. As you know, I have often talked to you about that. In my view, it is important for the Supreme Court to show equality between men and women, as much as it can with an uneven number of members. This is the kind of equality we must have in Canada. Congratulations on doing that.

Today, we are hearing good things about the Hon. Suzanne Côté, as we will have to call her soon. Whether you like it or not, you know as well as I do that, when we talk about the Supreme Court of Canada, the process is always the elephant in the room.

I would like to digress for a moment. Your government has just made the final appointment to the Supreme Court of Canada. Unless someone resigns, I don't think there will be any positions to fill at the Supreme Court for some time. Mr. Minister, perhaps we should use that time to think about the process. People on the ground have many ideas. Various experts have talked about it and made various suggestions. Over the years, since the early 2000s, we have been trying to use different methods. I think Canadians are entitled to a process that is as transparent as possible.

In addition to the fact that Suzanne Côté's appointment is excellent, I would like to be able to tell everyone who asks me whether it was a political or transparent process. However, I will not be able to do so because everything was done behind closed doors. That is always a bit irritating. I think it is possible to make the same decisions using a more open process.

Mr. Minister, I hope that you will be willing to allow this committee, or any other committee, to study the issue and see whether we could do better. When I say "do better", I am not talking about a better appointment, but about improving the process. That is what I am hoping for in this situation. I find it regrettable that there is no ad hoc committee because it is always useful to introduce new judges to Canadians. With that, I conclude this part of my remarks.

I would like us to do this for all the other appointments. We are talking about the budget here. Mr. Minister, some items are already in your budgets, such as some judicial positions that are still not filled. I am upset, because we are talking about access to justice, but there are still 23 vacancies at the Ontario Superior Court. All the judges I meet during my consultations tell me that this has a huge impact on access to justice and on the way justice is done. Judges are sometimes swamped. We should take care of that and fill those positions as soon as possible.

We also need to make sure that the process of appointing the judges is not political. It needs to be as transparent as possible because, as you explained in the House this week, we always strive to reward merit, to reward people's skills and qualifications. This should also apply to the courts.

I will let you respond to those few comments.

● (1550)

Hon. Peter MacKay: Thank you very much, Ms. Boivin.

As always, I appreciate your approach and agree with you on many of your comments.

This decision is the result of a number of consultations with many people from Quebec—the province where you live—who work in the justice system. Specifically, there were people from the Barreau du Québec and the Canadian Bar Association. So a lot of people were consulted and expressed all the opinions needed to make a good decision.

I also appreciate your view on the process. What you said about transparency and the trust of Canadians is really important.

Unfortunately, the process in which you participated was tainted because of a leak.

[*English*]

The integrity of the appointment process, not to mention the confidence that Canadians have in the individuals, is extremely important. I think we can both agree. My concern is that there are individuals who may not apply or would be dissuaded from putting their names forward if they felt—

Ms. Françoise Boivin: It would go public. That, I understand, Mr. Minister.

Hon. Peter MacKay: This is exactly what happened. I'll come directly to your question. This is what, unfortunately, undermined a process that our government undertook. You would have to admit that it was in fact the most inclusive and the most consultative process that we have seen in Canada thus far.

Ms. Françoise Boivin: It worked very well with Justice Wagner.

Hon. Peter MacKay: It did indeed.

Ms. Françoise Boivin: I don't necessarily want to argue with you, Minister, but sometimes maybe it's who is on the list that might create the problem.

• (1555)

Hon. Peter MacKay: Or who is on the committee.

Ms. Françoise Boivin: If you don't have a problem with the list, then it might not create the so-called “leak”.

The Chair: Madame Boivin, you're well over your time.

Do you want to finish your answer?

Hon. Peter MacKay: I just want to say that the integrity of the selection process first and foremost has to include this broad consultation. We chose to consult directly, in this instance. I would not suggest for a minute that this process cannot be re-examined, but in this particular instance we have chosen to move in this direction, as I said outside, to expedite the process, to ensure that the court had a full complement and that Quebec was fully represented, and, as I think you've underscored today and previously the need for this, to have gender balance reflected within our judiciary, but more broadly within Canadian society.

The Chair: Thank you, Minister.

Thank you for those questions.

Our next questioner is Mr. Dechert from the Conservative Party. You'll get the same time as the NDP.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair. Welcome, Minister.

I want to start by joining Madame Boivin in thanking Justice LeBel for his great years of service to our country and to our justice system. I also want to let you know that as a member of the practising bar a few years ago, I was familiar with Madame Côté, as I think all members of the bar in Canada were. The members of the bar have the highest regard for her. She was considered one of the finest trial lawyers in Canada. I think it's just a tremendous appointment. I congratulate you on that appointment.

I want to refer to some of the things you highlighted in your opening remarks today. You mentioned the Canadian victims bill of rights, and you'll know that the committee has been studying Bill C-32, the victims bill of rights. We just concluded our review and started our clause-by-clause review on Tuesday. I can tell you that in my riding, in Mississauga, for many years people have questioned their faith in the justice system. They were concerned that victims were treated as just another witness in the process and that they were often not informed about the investigative process, about the prosecution, about court dates, about plea bargains, and all the various procedures in a process that affected them greatly, because they were the people who were injured in the event that led to the process.

I wonder if you could tell us what you've been hearing from victims with regard to Canada's criminal justice system. How do you feel the victims bill of rights will change the status quo within the justice system?

Hon. Peter MacKay: Thank you very much. I've been hearing that there is marked improvement, there is greater optimism than certainly there was some years ago. Frankly, during the consultations—and we did numerous consultations in every province and territory—one of the themes I did hear emerge was that victims felt they were often not included, that the system was too complex. It was cumbersome. It felt very foreign. There was confusion as to where the responsibilities to them were actually found. Having said that, the inclusion now of victim services does vary across the country, particularly in remote parts of Canada where Mr. Leef comes from, for example, and there are bigger challenges to reach remote communities. But these victim services coupled with child advocacy centres, coupled with what I think is really an evolution within the system to be more respectful of victims, have brought us a long way.

The victims bill of rights is intended to cement or to put in place for the very first time in federal law prescribed rights of victims that will be enforceable. This works very well with our victims ombudsman and provincial victims ombudsmen who are there to ensure that victims are treated fairly, that they do receive the information necessary to make important decisions for themselves or their families in a timely fashion. Everybody knows their obligations and responsibilities, from police, from crown defence counsel, the court itself, the victim services. There are more clearly defined roles. I think this will be a quantum leap and an improvement across the board. I truly believe this will be transformational for our system. I worked in the justice system at a time when there were no victim impact statements, where victim services were scant, if they existed at all in certain places, in parts of the country, where things such as testimonial aids and some of the more very precise improvements that we're seeing in our criminal justice system were again not applied uniformly or were certainly not as readily available.

I feel very strongly about that. We've invested significant dollars, \$140 million, over the past seven-plus years. We have put in place these supports and this wraparound service that is very much intended to delineate the responsibilities, and just simply raise awareness, where victims know they can go to a certain location, to a certain individual, to see that their rights are respected and their role is included.

• (1600)

Mr. Bob Dechert: Thank you, Minister.

You also mentioned in your opening comments child and youth advocacy centres. You'll know the Boost centre in Toronto that is doing amazing work on behalf of child and youth sexual assault victims in the city of Toronto. On October 29, you visited the Catholic Family Services of Peel and Dufferin and announced an amount of \$249,000 to help in the creation of a CYAC in Peel region, which is part of the area that I represent and Mr. Seebach represents. I can tell you we're both big supporters of the CYAC concept and we would really like to see it come to our region. I wonder if you could give us a little more explanation about why you think CYACs are worth supporting, and tell us what you see as the real value of the work that they do.

Hon. Peter MacKay: You have good reason to be proud of the child advocacy centre in your region. This is groundbreaking in terms of the approach because it is tailor made to be child-friendly and parent-friendly. It recognizes the extremely deleterious, debilitating impact that child sexual abuse can have. There is much more clear understanding of the necessity for early intervention and breaking down some of these intimidating barriers for children in particular. The fact that we are seeing such a positive response is quite instructive for the broader criminal justice system.

We have brilliant people in mental health services, victim services, now working directly with all of the major players—participants in the system, from police at the earliest stages of investigation, to the parents, to the education system—and it is all done in a very coordinated fashion to break down some of the barriers that were there previously.

I mentioned we have 22 now in operation or in development. I'd be pleased to leave this with the committee, which sets out in some

detail where these are currently operating and where they will be operating, with more in the works.

People like Sheldon Kennedy, Dr. Amy Ornstein, and many others who have invested personally of their time, effort, and leadership in making the success in our system, really deserve all the credit. They can speak to this with far more passion and understanding than I can, although I do feel very motivated and inspired when I visit these child advocacy centres and see the improvements that are being made: multidisciplinary teams, child psychologists, those who are deeply familiar with how to treat and how to help children overcome all of this, including the stigma that is still there.

I think I mentioned the last time I was here, something as simple as allowing a child to take a personal item, their pet, to an interview or to a court process so lessens the trauma of that experience and helps to do away with what is commonly known as “re-victimization.” I can't say enough about these child advocacy centres. It's my hope that we can continue to make them available to more communities and more children in the country.

The Chair: Thank you, Minister.

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

Mr. Sean Casey (Charlottetown, Lib.): Thank you, Mr. Chair.

Minister, allow me to make it unanimous in terms of the parties represented here in thanking Justice LeBel for his years of service and in welcoming Suzanne Côté to the Supreme Court. I also share the view of Madame Boivin when she indicated that the fact that you have chosen to nominate a woman is a positive step towards correcting the gender imbalance in the court. I would also offer my support in that regard, Minister.

She said something else that I would also align myself with. I appreciate your candour with respect to being open to changes in the process going forward that potentially allow for parliamentary involvement. As you know well, all parties agreed under the previous administration that a closed, secretive process wasn't appropriate, and there was a process that you acknowledged worked quite well in the appointment of Justice Wagner.

I've gone one step further, Minister, and put the committee on notice of a motion, which I propose to present now, and that is:

That the Committee agree with the recommendations of the Honourable Peter MacKay, Minister of Justice and Attorney General, submitted on May 5, 2004, when he joined with the Honourable Kevin Sorenson, Minister of State for Finance; the Honourable Vic Toews, former Minister of Justice and Attorney General; Mr. Garry Breitkreuz, Member for Yorkton-Melville; and Mr. Chuck Cadman, former Member for Surrey North, to recommend that “[t]here must be substantive input from all the provinces and territories into the compilation of a list of suitable Supreme Court of Canada nominees”, “[t]here must be a public review of a short list of the nominees before a parliamentary committee”, and “[t]here must be Parliamentary ratification of the chosen nominee.”

• (1605)

The Chair: Are you moving that?

Mr. Sean Casey: I am.

The Chair: Here's my suggestion.

If you move it now that means we move to that item. The minister is here and has no obligation to participate in the discussion, which he's not going to do, and at 4:30 he leaves. We're losing our opportunity to talk about the estimates, which is what we brought him here for.

The option in my view would be for you to give us notice that in the second hour, in your turn—because we will start over again, you will get another turn—you move it then and that the committee deals with it then. If you want to ask questions of the minister of your motion that you intend to move in the second hour, then it will be part of your time. Otherwise we move on to debate on that particular motion.

I'm leaving it to you to decide what you prefer to do. He will not be responding because he's not a witness to this. That's committee business that you're moving. He's not on the committee.

Mr. Sean Casey: Thank you, Mr. Chair. If I understand what you just said to me, the only way that I can ask the minister about the motion is if I agree to put it off to the second hour.

The Chair: That is correct, sir.

Mr. Sean Casey: I'll do that.

Does the 2014 Peter MacKay agree with the 2004 Peter MacKay?

Hon. Peter MacKay: Mr. Casey, let me respond this way. It's somewhat ironic that you, representing the Liberal Party, would be wrapping around the words of Peter MacKay in 2004 when they were soundly rejected by the justice minister, Mr. Cotler at the time, so much so that they had to be put in a dissenting report that clearly indicated that your party—albeit you weren't there—made the very overt decision to not follow that advice.

There have been various processes used over time. As I said to Madam Boivin, upon forming the government in 2006, we initiated the most open, inclusive process that's ever been seen in the Canadian judicial system, which included this parliamentary process of a committee, of recommendations, of working from a list. Suffice it to say that I personally believe that processes can always be improved and should be revisited from time to time.

One must also keep in mind the circumstances and the tenor of the times. We needed to move quickly, for example, with respect to the appointment of Mr. Justice Cromwell, as I recall, because of a pending election and the need to have a full complement. Similarly, and more recently, with the appointment of Mr. Justice Gascon and Madam Côté, I would suggest that because of the importance of having a full complement from the province of Quebec those circumstances dictated that we move and use the alternative process.

On the consultative part of this exercise, is it aided or hindered by the parliamentary participation of having the committee go out and do these consultations and then report back to me or through me to the Prime Minister? That remains to be seen. When there are leaks and when the process itself is impugned, and individuals who might otherwise want their names considered are dissuaded from doing so because of the threat that their names could be publicly disclosed, one has to weigh that, which is what we did in this instance and therefore chose to take an alternative route and consult directly with

the most important individuals. In this case we consulted the Supreme Court of Canada, the supreme court of Quebec, prominent members of the legal community, of course the Minister of Justice from Quebec, and other practitioners, and in some cases, retired judges, who weighed in on this important decision and gave us advice.

• (1610)

Mr. Sean Casey: You don't mean to say that there was inadequate time or inadequate notice of the retirement of Justice LeBel to put in place a process along the lines of the one that you've spoken so highly of?

Hon. Peter MacKay: That's not what I said at all, no.

Mr. Sean Casey: I just want to be clear on that. You don't mean to imply that there was some urgency around this appointment and the need to move to the process that you've chosen? You call it direct consultation. We might differ on how that's described.

Hon. Peter MacKay: Direct and broad consultations means in some cases I picked up the phone and called people or met with them. I say this about the necessity of preserving the integrity of the system: when I read in *The Globe and Mail* that the list we were working from, which you and other members were a part of forming, was leaked, that was very much a consideration.

Mr. Sean Casey: Mr. Minister, I've corrected you on this privately before. Now, unfortunately, I'm going to have to do it on front of the committee. I was not part of the process. The representative from the Liberal Party was Dominic LeBlanc. You are aware of that, sir.

Hon. Peter MacKay: Okay.

The Chair: You have another minute.

Mr. Sean Casey: I want to change topics here for a second.

Mr. Minister, you mentioned in your opening remarks the aboriginal justice strategy and made specific reference to fetal alcohol spectrum disorder. Yesterday, a private member's bill from Mr. Leef was withdrawn even though it had broad support and certainly the support of the Liberal Party.

Can you explain the government's rationale in killing the bill?

Hon. Peter MacKay: That's not at all what happened. I have to correct you and admonish you for using that word.

It wasn't killed. It was a decision taken by the member to have this matter proceed to this committee for further study, which we hope will result in inclusion. I know that Mr. Leef, having championed this issue, intends to see this effort to address very specifically how we improve dealing with this very deleterious condition known as fetal alcohol syndrome. How we do so through programming, through involvement of Health Canada, certainly the provincial and territorial partnerships that will emerge and are currently very much part of the solution, will be given greater study. I would suggest it will give new life to the issue, not kill the issue.

The Chair: Thank you very much.

Thanks for those questions and answers. It's lovely to discuss the estimates.

Mr. Goguen, the floor is yours.

Mr. Robert Goguen (Moncton—Riverview—Dieppe, CPC): Thank you to the minister and all the officials for coming. I certainly want to commend you on bringing forth the Canadian victims bill of rights.

You know the committee seized of this, and there have been resounding testimonials in support. Certainly bringing the victims' voices squarely into the justice system is long overdue. It's been accepted wholly by all participants, and this is going to bring dignity to the process.

Mr. Chair, with your indulgence, I'd like to ask a question on the supplementary estimates.

The Chair: Yes. That would be nice. Thank you.

Mr. Robert Goguen: Good enough.

Obviously one of the tenets of the Canadian victims bill of rights is giving the victims advice, notice, so they know where they're going. Nothing could be worse than going through a system that is foreign to you. The fear of the unknown is spectacular at making someone anxious and fearful. I see there's a multipronged process to give information to victims.

Earlier this month we announced \$200,000 in funding for a victim justice network to establish online networks for victims of crime, criminal justice professionals, and others who directly serve victims. You spoke about Ryan Leef's riding, a faraway riding where perhaps information isn't quite as available. Can you speak to the objective of this victim justice network, and how it will work to the benefit of those involved?

Hon. Peter MacKay: Yes. I very much embrace the use of technology when it comes to access to justice more generally. In this particular instance, we're attempting to create interconnectivity through online systems through this justice network, much like the model of the child advocacy centres. As I mentioned, we have already established these child advocacy centres that have the ability to access that information to assist victims across the country.

We're a country where people are highly mobile. Sometimes crimes sadly occur in one jurisdiction, people move, or they were on vacation. In many instances you have people in one part of the country who are required to return for court proceedings. In my view using closed-circuit cameras; being able to share that information; having police forces, victims' services, and court administration interconnected through technology helps us overcome some of the vast distances. The north in particular has these challenges daily. We have very remote communities that quite frankly you can only access at certain times of the year. Mr. Leef can speak to this with authority. It requires specialized equipment just to get there, given the remoteness of the community.

This victim justice network has been spearheaded by one woman in particular who has great personal experience in the justice system, Priscilla de Villiers. She and many others who are dedicated, volunteers for the most part, have been the initiators of this process. As you mentioned, we've put \$200,000 toward this initiative. In my view it will bring about a much more efficient, much more interconnected system that will not only benefit victims, but also benefit the participants who work every day to try to improve the way our justice system functions in Canada.

• (1615)

Mr. Robert Goguen: I think you'd agree, Minister, that the justice system is not only daunting for victims, it's also daunting to litigants, many of whom are unrepresented. You mentioned the issue of access to justice, and there are more and more unrepresented litigants in the process. You've mentioned mediation as perhaps a method of streamlining family law litigation.

Can you tell us where you see the benefits of this unfolding and the direct objectives you want to reach?

Hon. Peter MacKay: The access to justice initiative is something that has been around for a number of years. The Chief Justice, Madam Justice McLachlin, has championed this, as has Thomas Cromwell. It has been written about in various reports regarding how we can do a better job of, as you say, serving everyone who works within that process. It's very important that victims be included in all these calculations.

Unrepresented accused represent a severe challenge, particularly to a judge's ability to preside over a courtroom. When the individual, for a variety of reasons, is unrepresented—very often there are financial considerations—the judge literally has to slow down the process, which creates another byproduct, delay. This is a direct challenge to our system. The old adage “justice delayed is justice denied” is a very live issue.

I know there are dedicated efforts by the Canadian Bar Association and by provincial bar associations. We met very recently in New Brunswick with representatives in your community who serve on the Canadian Bar Association. They are very smart, dedicated people who are attempting to deal with this issue very directly.

With regard to translation services, access to justice in your own language is also an issue. New Brunswick leads the way and leads the country, in terms of bilingual services. In other parts of our country where first nations are involved, this again is an important issue in terms of how we deliver a system that is fair, that is inclusive, and that promotes public confidence. To use the vernacular, it's a work in progress.

Technology provides many of the answers. Very dedicated people who are promoting this justice network will help serve victims better. I'm confident that through resources, through dedicated effort, and through ingenuity we're making a real dent in this issue of access to justice.

Mr. Robert Goguen: Of course delay always causes prejudice. In the case of family law, lives are torn apart through delays, and the backlogs seem to continue. Do you see access to justice through mediation somehow being enhanced? What are your thoughts on this?

• (1620)

Hon. Peter MacKay: Absolutely. Many judges in our Family Court system are rightly demanding that mediation occur before people even appear in the courtroom. I was a practitioner of family law only long enough to realize that it wasn't an area of law I wanted to pursue, in large part because of the confrontational nature and the fact that when children are involved the heightened emotion very often skews the outcome.

In your example about unrepresented accused, mediation would give us the ability to sit down and try...to the greatest extent possible before going before a judge and making hard, harsh decisions that may have unintended consequences, particularly in terms of parental orders, access to children, access to family, or a move that could dislocate a family. These are life-altering decisions to say the least, and the mediation methodology has exponentially impacted the way Family Court operates and the way we are moving away from the strict confrontational approach that has quite frankly not worked well within our family justice system.

The Chair: Thank you, Minister.

Our next questioner from the New Democratic Party is Madame Péclet.

[*Translation*]

Ms. Ève Péclet (La Pointe-de-l'Île, NDP): Thank you very much, Mr. Chair. I just have a quick question for the minister, after which I will be sharing my time with my colleague.

Since 2006, there has been a modest increase of a few million dollars in legal aid. The amount went up from \$128 million to \$132 million in 2011. In 2014-15, a decrease in government contributions has brought legal aid down to \$120 million. This means that it has dropped below the threshold of the 2006 contributions, when the Conservatives were elected.

I find that rather strange because we are now being told that, from 2014 to 2017, contributions to legal aid will once again be reduced to \$108 million, which is \$20 million less than the contributions made in 2006-2007. In that respect, the provinces are unanimous. In addition, a report by the Chief Justice of the Supreme Court, the Hon. Beverley McLachlin, said that legal aid is an essential part of access to justice.

We talked about the Canadian Victims Bill of Rights. We talked about how important the aid for victims and access to justice are.

Basically, I would just like to ask you this question. Why is the contribution to legal aid being reduced to \$108 million over the next few years when we know that the situation has reached a critical stage in terms of access to justice?

Thank you very much.

Hon. Peter MacKay: Thank you for the question.

I will answer in English to provide you with accurate numbers.

[*English*]

You're referring, I believe, to the supplementary information on the legal aid program, which is located in your materials.

The \$108.3 million that you're referring to is for criminal legal aid. That isn't the full picture. When you add up program operations, other components, and these supplementary estimates (B) that we are seeking your approval on today, the figure actually comes to \$126.46 million, so there's an increase that will be deduced as a result of these supplementary estimates (B).

I would also note that there is an additional \$4.1 million for the territories that comes across through these estimates, so there are

transfers as well that will bolster this number well beyond the \$108-million figure that you're referring to.

Is that clear?

The Chair: How much time do you have? Six minutes; I've given everyone eight minutes.

Ms. Ève Péclet: Six minutes...oh.

Some hon. members: Oh, oh!

Ms. Ève Péclet: If I have six minutes...

I just want to correct the Minister.

I'm not sure and I might be mistaken, but in the brief that we received from the Library it's actually the total amount that we're talking about, because the whole picture was integrated in the *tableau*. Sorry, I don't know how to say this in English.

• (1625)

Hon. Peter MacKay: I'm not sure which document you're working from.

The Chair: It's the Library of Parliament's.

They have not seen it.

Hon. Peter MacKay: I haven't seen your document either, but what I can tell you is that the \$108-million figure that you're referring to, that figure, by our documentation, represents the figure pre the addition of the supplementary estimates. The \$11.5 million that we're seeking here, plus a territorial transfer, will actually bring that number up. It shows an increase on paper if the supplementary estimates (B) are approved today.

Ms. Ève Péclet: It shows an increase from 2014 but it's still under the level of 2006.

Hon. Peter MacKay: Just to be clear on that point, I don't want to dispute or say I'm correcting you, but the figures have actually been frozen. This was one area of the department's budget that did not go through deficit reduction action. This figure has been consistent since we took office. We have not diminished legal aid funding.

You may retort, "Well, as a per capita", because in certain provinces we have seen an increase in population—Alberta perhaps is the most obvious example—but the monetary figure has not decreased and the legal aid budget was not subject to reductions that other programs faced.

The Chair: Mr. Toone.

Mr. Philip Toone (Gaspésie—Îles-de-la-Madeleine, NDP): Thank you.

I will try to keep it brief.

[*Translation*]

First, I would like to thank the minister for appointing someone from the Gaspé Peninsula to the Supreme Court. I have a feeling of regional pride since Suzanne Côté comes from Cloridorme, which is a very beautiful village in my riding. I have no doubt that she will be an unparalleled asset for the Supreme Court. So thank you.

I would like to briefly talk about minimum sentencing. I don't have a lot of time to talk about it.

Since the Conservative government came to power, the minimum sentencing provisions in the Criminal Code have multiplied significantly.

There are more and more trials in courts opposing minimum sentences. Has the federal workforce required to defend those provisions under the Criminal Code been increased? Is that planned for in the estimates? In our courts, how much does defending minimum sentencing provisions cost?

Hon. Peter MacKay: I greatly appreciate your comment on Ms. Côté's roots. I completely agree with the positive reception from all the members of this committee.

In terms of mandatory minimum sentences,
[English]

I would say, just for context, there are some 60 inclusions of offences in the Criminal Code now that have a mandatory minimum penalty, so this is not a new concept. It has been around literally since the Criminal Code has existed, that is, offences that were punishable by mandatory minimum penalties.

Last February, as you would know, we brought in the tougher penalties for child predators. This proposes, among other things, to increase mandatory minimum penalties as they pertain to child sex offences and require in some cases that these sentences be served consecutively in some circumstances. Mandatory minimum penalties, I would submit to you and to committee colleagues, are carefully tailored to address the very serious impact of the types of crime and the offences that they seek to deter.

Mr. Philip Toone: I appreciate that, Minister, but we don't have a lot of time. Could you get to the point? Do we have a number, the amount of manpower required, the costs and—

The Chair: You have 10 seconds to answer that question.

Hon. Peter MacKay: The impact would be very much borne out by those who choose to go to trial, I suppose, rather than seek plea bargains. This is a difficult thing to try to calculate. It would also be borne out in another department, that is Public Safety Canada, in terms of periods of incarceration, so I don't have that information at my fingertips.

•(1630)

The Chair: Okay, thank you very much.

Thank you, Minister, for joining us for this hour. I want to thank committee members for their questions.

We will suspend for a few minutes, because we have a number of guests who are going to join us at the table.

Thank you very much.

•(1630)

_____ (Pause) _____

•(1630)

The Chair: I call this meeting back to order.

This is our second panel and we have a variety of witnesses who are listed on your sheets, so I'm not going to go through the names.

Does the deputy minister have an opening statement, or are you here only to answer questions?

Mr. William F. Pentney (Deputy Minister of Justice and Deputy Attorney General of Canada, Department of Justice): I'd be happy to turn directly to questions, and some of my colleagues from the portfolio agencies are here. Last time we were here there was some discussion on questions I was not in a position to answer, so I'm hoping all of my good friends here are able to answer all of the questions you have.

The Chair: That's great, thank you very much.

Mr. Pentney, it happens on lots of committees where some people have questions and one person has all the answers, but that's not the case here, so I appreciate everyone coming today.

Mr. Wilks, on our first round the floor is yours.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you very much and—

The Chair: We'll be much more strict on time this time, though.

Mr. David Wilks: Excellent. Thank you very much and thank you to all of the officials for being here today. I'll just throw—

The Chair: Oh, I'm sorry, my apologies. It's not where we're starting—

Mr. David Wilks: Oh, for God's sake—

•(1635)

The Chair: Madam Boivin asked for time.

I forgot where we were starting—

Mr. David Wilks: You have six minutes and 38 seconds.

The Chair: I said suspend, I'm sorry. I should have said starting a new meeting.

There you go, Madam Boivin.

Ms. Françoise Boivin: Exactly. Now that's being on the ball.

I have questions on the supplementary estimates.

[Translation]

Mr. Pentney, I am not sure whether you remember, but during one of your most recent appearances with the minister before the committee, there were people from the

[English]

Teslin Tlingit Council. I know that in the supplementaries there are some funds that are added

[Translation]

for the aboriginal justice strategy. I was wondering whether you could give us an update on any related developments.

Is the matter being addressed? I am asking you this because I received a call about it.

Are things moving forward? Have those people started to benefit from the program?

Mr. William F. Pentney: Thank you for the question.

I think the Teslin Tlingit Council has been receiving funding for years from the aboriginal justice strategy to administer its aboriginal justice program in its community. The objective is to advance negotiations on self-government, but the funding is not directly related to those debates. The program is carried out in the community and is not directly connected to the negotiations. I think discussions are ongoing, but I know the situation is complex.

Ms. Françoise Boivin: Is progress being made? Is there an end in sight?

Mr. William F. Pentney: I think so, but you should ask the Department of Aboriginal Affairs about the status of the discussions.

Ms. Françoise Boivin: Okay. Thank you.

My next question is for the new chief administrator of the Administrative Tribunals Support Service of Canada.

Ms. Pelletier, congratulations on your appointment and welcome to our committee.

Many tribunals fall under your responsibility. However, the amount listed for the Administrative Tribunals Support Service of Canada is \$1. Considering the amount, it may seem strange for me to be taking the time to ask you questions about it. I told myself that it can be one of two things: there was either a miscalculation somewhere or, because the service is new, the decision was to include it in the budget. I just wanted to make sure that I had a good grasp of the situation and that you would not be required to fulfill your duties relying on a single dollar.

Ms. Marie-France Pelletier (Chief Administrator, Administrative Tribunals Support Service of Canada): If that were the case, Christmas presents would be very modest.

Ms. Françoise Boivin: Yes, there wouldn't be much of a party either.

Ms. Marie-France Pelletier: You have understood correctly, Ms. Boivin. Under our enabling legislation, transitional provisions have been set out to give us access to the appropriate budget in various tribunals. That is how we got our funding for this fiscal year. The purpose of the \$1 is to have us listed and to reflect the transfer of responsibilities and duties from the tribunals to the new service.

Ms. Françoise Boivin: I have practiced labour law a lot, so I am interested in everything to do with administrative tribunals. You have been given a major responsibility. Not all tribunals are alike either.

How is the merger of the administrative services coming along?

Ms. Marie-France Pelletier: It is coming along very well. I have to recognize the work done by the transition team over the last six or eight months. When I arrived a few weeks ago, I was able to see that a huge amount of work had been done in preparation for the start of operations, which happened on November 1.

The management services of the various tribunals have been brought together now. The work and the mandate of each of the tribunals are very well maintained; the work is being done by the same employees, the ones who were there before November 1.

Ms. Françoise Boivin: Thank you.

For the Office of the Commissioner for Federal Judicial Affairs, there is an additional budget to pay inquiry costs under the Judges

Act. Could you tell me if there are more lawsuits against judges? What exactly is behind that?

[English]

Mr. William A. Brooks (Commissioner, Office of the Commissioner for Federal Judicial Affairs): Merci.

The issue there, and the request for the \$1.6 million in supplementary estimates (B), is to support the Canadian Judicial Council, which is one of the mandates of our office, in respect of their conduct and inquiry work this fiscal year. They presently have, or they had until the other day, three ongoing public inquiries into the conduct of judicial judges. These are very serious inquiries that could result in a recommendation that the judges be removed from office. The Douglas inquiry was a very hard fought one.

The \$1.6 million was our anticipated best estimate of what the costs would be for these three inquiries for the balance of this fiscal year.

• (1640)

Ms. Françoise Boivin: Is it exceptional, as in, is it different from year to year? It seems to be more for this year than previous years.

Mr. William A. Brooks: It is. Public inquiries are rare. The Canadian Judicial Council receives about 160 complaints against judges a year. Most of them are disgruntled litigants and are easily dealt with. Where there are rare cases where a complaint is sufficiently serious that a finding could result in the removal of a judge from the bench, it's open to the Canadian Judicial Council to require and call a public inquiry into the question. It's unprecedented right now, but there are three on the go, or there were three on the go.

The Chair: Mr. Brooks, thank you for being here and answering those questions.

Our next questioner now is Mr. Wilks. I'm sorry for making you wait for five minutes.

Mr. David Wilks: I had to recompose myself, but I think I'll get over it.

I'll direct all my questions to Mr. Pentney, and you can divert them how you so choose.

In the supplementary estimates (B) for 2014-15, there was \$50,000 in grants provided, and nearly \$16 million in contributions for the supporting families fund. Could you describe the various services provided with the funding from these grants and contributions?

Mr. William F. Pentney: I will kick it off, and some of my colleagues will add more. Supporting families, as the minister had said, is a very important initiative of the federal government in trying to support a holistic approach to family law. Out of that money, about \$15 million will be available to provinces to try to support things like mediation programs and family support services. It also supports our employees who administer the programs that the minister mentioned in terms of trying to support parents who are going through this, for example, trying to support parents who are entitled to custody and support payments through a garnishee program so that federal funds that are owed to parents are actually received by the parents who are owed. The money supports on-the-ground programming to help mediation and other services to help families through this process.

It also helps us administer a couple of programs: the garnishee program and the support program. We also run kind of an odd little program that prevents husband and wife from getting divorced in two different provinces at the same time. Given a federal state and provincial courts and given the fact that our court systems are not yet fully automated, to put it mildly, we run a program to try to ensure that there's a central registry of divorce so that, when a divorce proceeding is filed, we can make sure that the couple are only getting divorced in one jurisdiction. It's a practical Canadian solution to an issue.

I don't know if any of my colleagues want to add anything.

Mr. David Wilks: Also in the budget 2014, the government proposes extending its investment to the aboriginal justice strategy by \$22.2 million over two years. Could you tell us a little bit more about the aboriginal justice strategy and how effective it has been in establishing community-based justice programs?

Mr. William F. Pentney: I can turn it over to one of my colleagues to provide more, but I can say that one of my first jobs in the Department of Justice was administering that program. You got to go to communities that are in some of the most remote, far-flung, and frankly, desperate situations in all of Canada. You got to see community leaders who have taken on the job actually trying to turn around their communities, and especially their kids, taking those kids whose first contact with the justice system could lead them down the path that we've seen, unfortunately, too many people get on to, and frankly, doing what your parents and my parents did when we were growing up, which was try to get us on another path through a supportive intervention. There are true heroes out there in those communities who are working very hard to try to use their traditional approaches and an alternative approach to diverting, especially first-time, low-level offenders, out of a path and getting them on to a better path.

The other thing I would say is that some of the offenders I encountered when I was in those communities would tell you that doing the ordinary process, and for those who did a bit of jail time, doing some jail time was easier than going home to face mom and dad and the aunts and having to work in the community to restore the harm that they'd done. That was, for them, a much more difficult personal thing to do. When you talked to them a decade later, it still had an impact on them. So many of the people working in these community programs were, in a sense, graduates of the program. The

personal impact it had on them turned them around to lead in their own communities.

That's the work that AJS does. We have more information. Don can talk more about the actual impact that the program has had if we have a minute or two.

•(1645)

Mr. Donald Piragoff (Senior Assistant Deputy Minister, Policy Sector, Department of Justice): This is a cost-shared program with the provinces and it serves 275 aboriginal programs in over 800 communities across Canada. The program has been very successful in reducing recidivism: 89% of clients who go into the program successfully complete the aboriginal justice system program. Those who complete the program have significantly lower rates of recidivism. The program has also been very good, as Mr. Pentney said, in terms of diversion. Some of this diversion has been associated with jobs skills training so that these people have actually been diverted into the labour market as opposed to the criminal market. Of course, it also helps in these communities to ensure that they have more functional lives than the lives that they had before they got into the program.

It also saves the criminal justice system significant funds. It's estimated that in 2008-09, it resulted in about \$8 million in cost savings to the criminal justice system because it diverted people out of the system as opposed to having to go to trial, expensive trials, etc.

The Chair: Thank you for those questions and answers.

The next questioner from the Liberal party is Mr. Casey.

Mr. Sean Casey: Thank you, Mr. Chair.

Facing this panel of witnesses, I was counting to see if it's the same number of justices on the Supreme Court. With so much legal expertise here in the front of the room, I'm feeling a bit overwhelmed.

My first question is about the Supreme Court.

Mr. Pentney, you may want to refer this to the people from the Supreme Court, but I'll leave that up to you. It's with respect to the Nadon reference. Have the costs associated with the reference been tabulated, and can anyone share them with us?

Mr. William F. Pentney: I guess I'm not sure what would be included in the cost of the reference, but I will defer to Monsieur Bilodeau, if he knows whether the costs of the.... There would be some costs in terms of Department of Justice counsel time, but that's part of our ongoing operations.

Captain Kevin Obermeyer (Chief Executive Officer, Pacific Pilotage Authority Canada): Well, it would possibly depend on which type of expense you're referring to.

Mr. Sean Casey: I presume there would be hard costs and soft costs. In terms of soft costs I would think it would be staff, clerks, and these sorts of things. The hard costs would be the ones like Mr. Pentney referenced, which would be, I suppose, the cost of the lawyers appearing.

Mr. Roger Bilodeau (Registrar, Office of the Registrar, Supreme Court of Canada): Well, as registrar of the court overseeing the administrative support for the justices of the court, the reference in the Nadon matter was dealt with as any other reference or case in the course of its usual business. So, I cannot give you to date the exact cost of supporting that case, as for any other case, but it would have been the regular costs. Nothing special or extraordinary in terms of effort was made to support the handling of that case at the court.

Mr. Sean Casey: Separate and apart from the cost within the court, there was a bit of a public relations exchange of press releases and controversy that came out of that. Did the court incur costs in terms of defending Madam Justice McLachlin or the court as a result of the media storm that ensued?

Mr. Roger Bilodeau: To my knowledge...nothing out of the ordinary, in the sense that media matters are handled by the executive legal officer, as is always the case. To my knowledge, he handled that matter as he handles other matters with the media. I think it would be part of the regular workload of the executive legal officer to the chief justice.

Mr. Sean Casey: Okay, thank you.

Mr. Pentney, I'm looking at table 86. That sets out the listing of transfer payments in dollars broken down by grants and contributions. The first column references estimates to date, and for five of the seven items listed there the number is zero. Does that mean there was no anticipation that funds would be paid out under these programs, or were they being paid out under some other department? Why do we have zeros under estimates to date?

• (1650)

Mr. William F. Pentney: I'll ask Ms. Hendy to start.

Ms. Elizabeth Hendy (Director General, Programs Branch, Policy Sector, Department of Justice): If you're referring to the main estimates, then the programs that were receiving supplementary estimates today would have had a zero or a dash, because they would not have been appropriated yet. For the aboriginal justice strategy, supporting families, and immigration and refugee legal aid, they would have shown a dash in main estimates, because there would have been no funding appropriated. And they're being appropriated today, if you agree.

That would explain how you would have seen zeros for some programs.

Mr. Sean Casey: So, we're halfway through the fiscal year and there have been no funds appropriated. Surely there have been funds spent.

Ms. Elizabeth Hendy: Following authority from cabinet and Treasury Board approval, if, in advance, we know a supplementary estimate is coming, we would risk manage from a cash perspective and we would spend those funds. But there is a risk that we would not receive the appropriation if Parliament did not pass the supplementary estimates.

Mr. William F. Pentney: We're back into a matter the chair will want to dive into with both feet, which is the process by which main estimates and supplementary estimates are appropriated and the extent to which information is provided. But, as a department for ongoing programming where we have the approval.... Sometimes

governments decide to sunset a program. As you know, many of our programs are renewed every five years. Sometimes governments wind them down, in which case we manage the wind down. But if the approval is to carry it on and the intention of a government is to seek approval through main estimates or supplementary estimates, then we will manage through that.

The Chair: You have about 30 seconds left, Mr. Casey.

Mr. Sean Casey: Given the motion before you, I so move.

The Chair: Okay, so you're moving your motion.

Maybe the officials could just hold on for a few minutes, because I don't know how long this will last. If it's going to last for a while, I'll excuse you, and you'll be done for the day. But if this isn't so.... It's the same motion that was before us before. Does anybody need it reread? It has been distributed and it is in order, as it's been given 48 hours' notice, so it's all good.

The floor is yours, Mr. Casey, on the motion.

Mr. Sean Casey: Out of respect for the witnesses, I'll be very brief.

Everyone here heard the exchange with the minister. What the minister said in 2004 in that report is before you. What he said today is that he is certainly open to changes to the process. These are changes that were recommended by him and several of your colleagues 10 years ago.

I think it would be entirely appropriate for us to offer that input into the process that he is clearly seized with at this time.

[Translation]

The Chair: The floor now goes to Ms. Boivin.

Ms. Françoise Boivin: Those are the same reasons why the Liberal Party rejected it back then. I read it carefully. I am fully in favour of amending and improving the process. I think that is what we are all looking for.

I took careful note of the minister's remarks. He seems open to trying to find a formula that would, once and for all, let everyone say that, with good nominations, they are satisfied with the process and that it should be followed. That is not always the case.

I have several problems with this motion. Among them is the fact that it mentions Vic Toews and company. With all respect, I do not necessarily share a number of their opinions. Since I have problems with that, we were not off to a good start.

Then, things got worse when I read this:

[English]

...[t]here must be a public review of a short list of the nominees before a parliamentary committee", and "[t]here must be Parliamentary ratification of the chosen nominee."

[Translation]

Why do I have a problem with those two points? Because we then read:

[English]

The "public review of a short list of the nominees"...

[Translation]

I have been part of a confidential process twice. I have enormous respect for the confidential aspect of the process for the simple reason that the names of the people on the list are protected. I agree with the minister in that regard. I feel that even our Liberal colleagues should be in favour of that, not to make us happy, but to support the principle of confidentiality. I am always going to pay a lot of heed to that principle.

Just imagine. We considered the judges' nominations. We saw what happened with the list that was published in *The Globe and Mail*. Until the day I die, I will never confirm whether that was the list we had before us. Just for argument's sake, let us say that it was. Put yourself in the place of the judges who were not accepted. Like it or not, at that high level, being considered has an impact. People know each other. They know who among the judges on the Quebec Court of Appeal, for example, has a good reputation. The names go around every time a position opens up.

I know because I am a member of the Quebec Bar. My colleagues talk to each other. People talked to me. They told me that they were hoping that this name or that name was on our list. For me, the obligation to keep things confidential is extremely important. It protects the careers, present and future, of the candidates.

In addition, the process of public examination by a parliamentary committee has to be ratified by Parliament. That being the case, I want to avoid the American method as much as possible. I found that the minister, who was not in that position at the time, was mistaken. I am happy that, over the years, he has changed his view a little and that he has proposed this.

So I think that we have to work to find a better process. I was going to make a proposal. However, we may not have the time to deal with it immediately. I think, however, that I also have the right to make a motion while we are talking about a given subject, as long as it deals with the same topic. I do not think that my amendment to the motion will be passed, unless Mr. Casey is in favour of it.

So instead, I would propose that the text read as follows:

• (1655)

[English]

“That the Committee agree”—scratch everything else, and just write —“to review the process of nomination of judges in all courts under federal jurisdiction, including the Supreme Court of Canada, and to make a recommendation to Parliament on the best transparent process for said nominations.”

[Translation]

I think that this is the stage we have reached. We are two or three years away from the next appointment. There is no need for us to rush into something like this, but we should still come to grips with it.

With that said, I cannot vote for this motion because of the two basic reasons I mentioned. They are not solutions, in my view. I would never want to be seen to be in favour and for it to be said that I support that way of doing things.

[English]

The Chair: Are you actually moving that as an amendment?

Ms. Françoise Boivin: I don't know if it's a possible amendment to the...? Okay, so it's a subamendment.

The Chair: It's possible, yes. My suggestion would be, as chair, that it's not a subamendment because it's not an amendment to an amendment, so it's a motion and you're making an amendment. It is a significant amendment, but it's a legal amendment. You could, Madame Boivin, defeat this motion and then give notice of a new motion, your motion, and we can deal with it at a different meeting.

Ms. Françoise Boivin: I would prefer it that way so we could move maybe to the witnesses on the supplementary estimates, and we would still have the conversation that I think we need to have on the process of nominations.

The Chair: I just want to make sure of something.

Is her amendment significantly different enough so that she can move a motion at a different time even though it deals with the same subject?

Ms. Françoise Boivin: Let's talk among ourselves while they're doing this, unless he accepts it, in which case we might—

The Chair: There's really no such thing as accepting....

I'm moving on to Mr. Dechert, and I'll let you speak to both items, if you wish.

Mr. Bob Dechert: I understand that Madame Boivin is not putting this amendment forward.

Ms. Françoise Boivin: It depends on what they decide.

The Chair: The ruling is—and the chair was accurate—that this is substantially different enough that it can be a separate motion at a different time, if she wishes to do so.

And she will do the 48-hour notice, just as we got from Mr. Casey. Madame Boivin can do that. The difficulty would be that we can't deal with the same thing twice. But hers is significantly changing what is being proposed at the present time

Mr. Bob Dechert: So it's your intention to do that at another time?

Ms. Françoise Boivin: Exactly.

Mr. Bob Dechert: Okay. We'll just talk about Mr. Casey's motion.

I agree with Madam Boivin that it's bizarre, to say the least, that the Liberal Party is proposing that this committee adopt the dissenting report of the Conservative Party from May 2004, a report dissenting to the report of the committee of the day, which was dominated by the majority Liberal members under the chairmanship of Mr. Lee, who was at the time a Liberal MP from Scarborough—Rouge River. I understand that it was substantially different from what his party and the former Liberal justice minister actually decided to do in terms of appointing members to the Supreme Court.

I note that in that committee report there were eight recommendations made by the committee to the government of the day about how it would select the members of the Supreme Court. In fact, it didn't follow the majority of those recommendations.

I don't know, but he could go and speak to some of his former colleagues, including the Honourable Stéphane Dion, the Honourable Lawrence MacAulay, the Honourable Hedy Fry, and the Honourable John McKay, who are all currently in his caucus. In addition, there is Marlene Jennings, who was his predecessor as Liberal justice critic, and the Honourable Andy Scott, who was a member of cabinet at one time. All these people disagreed with what he is now proposing.

It's interesting to note that a significant number of the members of his current caucus disagreed in May of 2004 with what he is currently proposing, so he's apparently adopting a dissenting report that was voted down over 10 years ago by his own colleagues and is now presenting that as his party's suggestion on how the Supreme Court justices should be selected.

I can go through some of the recommendations, but one of them was that an advisory committee made up of one member of each of the parties would compile the list of candidates to be considered for the Supreme Court. I'm pretty sure that Mr. Cotler never did that, nor did any other justice minister that I'm aware of.

I find it bizarre. It's strange. It's certainly the first time in my history of serving as a member of the House of Commons that a member of another party has gone back into history, has dug out something that their own party turned down, something that was actually proposed in the past by some of my colleagues, and has then put it forward as something that the government of today should adopt going forward.

I think we heard from the minister his concern about what happened in the Nadon process. I was part of the process when Madam Justice Karakatsanis and Mr. Justice Moldaver were selected. That process went very well. Everyone signed a confidentiality agreement, everyone complied with it, and there were no leaks of any of the names. I agree with Madam Boivin that it's a real problem if the names are leaked, as we saw in *The Globe and Mail*.

I was quite shocked, personally, when I saw that list in *The Globe and Mail*. I remember from the time when I served on the committee how we were all admonished that we had to be extremely careful with everything we did, to make sure that in no way would any of those names be leaked, because clearly, first of all, it's like applying for any job. If you have a current job and are applying for another job, you don't necessarily want your current colleagues to know you're doing that.

Many of the people on the list are currently serving on other levels of court. Some of them are serving in law firms and in other places. The committee speaks to a wide range of people in the legal and judicial systems in Canada to get their views on each of those candidates. It obviously would compromise the advice the committee or the government would get from those it seeks advice from if they knew that the advice they were giving on these people would become public knowledge.

• (1700)

For all those reasons, I agree with Madam Boivin and I agree with the minister that this motion should be defeated. I think it is one of the strangest motions I have ever seen in my time here.

The Chair: Thank you for that.

Mr. Casey.

• (1705)

Mr. Sean Casey: I think Madame Boivin very ably set out all of the reasons that the Liberal Party of the time decided to go in another direction and we'll be most interested to see whether the Conservative party today agrees with the Conservative party of 2004 when they put this forward.

So we're ready to vote.

The Chair: Madame Péclet.

[Translation]

Ms. Ève Péclet: I thank my colleague, Mr. Casey, for introducing this motion, but, with respect, I should tell him that it is moving a little too fast.

This matter is extremely important and fundamental for our institutions of justice. We must not adopt a model of this kind right away without studying it and without hearing from witnesses on the matter. I am sure that my colleague could suggest experts who could come before the committee to speak for or against a public model. I think that he wants the same thing as we do, to adopt a process that is as transparent as possible. However, respecting judges' privacy must be one of the principles of that process.

It would be premature to adopt a ready-made model without hearing from experts and having studied the question in a little more depth. Adopting this motion would prevent us from consulting experts and groups who have been looking at the matter for a number of years. Instead, we should adopt the motion that my colleague from Gatineau is going to introduce. It will allow us to hear from witnesses who have studied the matter and then put our heads together to consider the best model to adopt.

My colleague is as hesitant as I am with the idea that the government would like an open model. I understand that. Nevertheless, we still have to let experts come before the committee to give us their opinions on the process of appointing judges.

My thanks to everyone for listening to us.

[English]

The Chair: I have no further speakers.

Mr. Sean Casey: Can we have a recorded division, Chair?

The Chair: You certainly can.

(Motion negated: nays 8; yeas 1)

The Chair: So there you go, and I think you can expect a motion coming out from our clerk.

Ms. Françoise Boivin: Can you consider...? Do I have to represent...?

The Chair: No, the clerk said he can read your writing. You submitted it—

Ms. Françoise Boivin: Excellent. Thank you.

The Chair: And I don't know how he reads your writing but he says he read it.

Ms. Françoise Boivin: I'm insulted that you can't read my writing.

The Chair: So we're back to you. We're back to our meeting.

I've put myself in this next slot. Is that okay? No? Good.

No, it's an easy one. Look, Justice didn't even make the top 10 in these supplementary (B)s.

They put the ones that are most significant...50 million bucks or whatever it is, \$51 million. But let me just be quick about it.

On the horizontal item, which I'm never excited about, horizontal items, it's the funding for comprehensive claims and self-government negotiations across Canada, and if I look at it, the justice committee is the number one funder in the supplementary (B)s.

Are we the number one funder overall?

A voice: I wouldn't think that we would be but I don't have the exact answer.

Mr. William F. Pentney: Given that it's a horizontal item primarily under...this is in support of negotiations. Aboriginal Affairs is paying for the negotiations. We're paying for the legal support. But I don't have those figures for other elements of the horizontal, I'm sorry.

• (1710)

The Chair: That's fine.

When I look at the supplementary estimates (B) on the horizontal piece, we are at \$2.6 million. It's only \$6.7 million to start with. It's a \$95-million item, but you're telling me that Indian affairs is in charge, not Justice. Is that correct?

Mr. William F. Pentney: That's right. This is legal support to comprehensive claims and self-government negotiations.

The Chair: When I see that number of \$2.6 million, and you say legal support, is that cash or is that bodies?

Mr. William F. Pentney: That's bodies, primarily.

The Chair: That is bodies.

Mr. William F. Pentney: Well, bodies, operating, travel, but—

The Chair: It's legal advice from people?

Mr. William F. Pentney: Yes.

The Chair: Not just cash?

Mr. William F. Pentney: No, that's right.

The Chair: I do want to comment, because I have an opportunity, that I find it strange that the Canadian Museum of History is also supplying cash or artifacts, or something to this discussion. I'm not sure what they'd be providing. We've got Fisheries and Oceans, Finance, Natural Resources, Parks Canada and the Canadian Museum of History, which boggles my mind.

Mr. William F. Pentney: You would understand, Mr. Chair, that in some of these negotiations articles and artifacts, and items of an historical and ceremonial and religious nature—that may be held by a Canadian museum, having been gathered up 100 years ago—can be part of the process of finding reconciliation on a path forward.

The Chair: I appreciate that answer.

The next question I have for you is on the reallocation of resources from contributions to grants, which I think Mr. Casey was referring to on the list of transfer payments. In the supplementary estimates (B), on the list of transfer payments, it's got \$1.2 million under vote 5b, transferring from a contribution, I believe, to a grant to the justice partnership and innovation piece. When I flip the page I see the supplementary estimates say \$1.7 million. Where is the other \$500,000? Where is that coming from?

Mr. William F. Pentney: I'll ask. Five hundred thousand?

The Chair: You need to look at supplementary estimates (B). You need to look at the page “Supplementary Estimates (B)”, not the main estimates.

Mr. William F. Pentney: We will find it, Mr. Chair.

The Chair: I think the answer to Mr. Casey's question is that because it's transferring from a contribution to a grant, that's why the zeros are there. It's not that we weren't funding stuff in the past, but it's coming out of a different type of delivery method that those zeros are there.

Does anybody have an answer for me, why under supplementary estimates (B) it's \$1.7 million? Unless there were some in supplementary estimates (A), but we didn't have supplementary estimates (A), so it couldn't be from supplementary estimates (A).

You can send me the answer.

Mr. William F. Pentney: Could we take that under advisement, Mr. Chair? We certainly are aware of the transfers back and forth here of resources from grants to contributions and contributions to grants. We will look at the \$500,000 discrepancy and we will provide you with an answer.

The Chair: I'll be honest with you. I had the same question as Mr. Casey and I think the minister mentioned the internal transfer. I would make a recommendation to you to make to TB that if there is a transfer between a grant and a contribution, that there's a note somewhere saying that internal grant would show up as a zero somewhere else.

Mr. William F. Pentney: We will convey that on.

The Chair: I had written down, “Is this a new program?” because there was no estimate to date, but that's not the case.

Mr. William F. Pentney: No. In respect of those, we can confirm that neither of them are new programs. They are transfers within the vote in that sense.

The Chair: That's all my time. Thank you very much.

New Democrats? Madam Pécelet.

Ms. Ève Pécelet: Those were very good questions, Mr. Chair. I know that you look closely at our finances and we thank you for that.

[*Translation*]

I would just like to confirm some of the information that the minister gave us.

Mr. Pentney, can you confirm what the total contributions for legal aid will be from 2014 to 2017?

Mr. William F. Pentney: Yes.

•(1715)

[English]

For criminal legal aid, we have \$108.3 million; for court-ordered counsel, \$1.65 million; for legal aid related to public security and anti-terrorism measures, \$2.0 million; for program operations—the people who help us administer this and their operating costs—\$1.63 million. In these supplementary estimates (B), we have \$11.5 million for immigration and refugee, \$0.5 million for cessation and vacation in the citizenship and immigration context, and \$0.88 million with respect to public security and anti-terrorism, for a total of \$126.46 million.

The minister mentioned as well that in terms of what an ordinary person would understand as legal aid, we should also add an amount which is transferred in an access.... I should let Elizabeth explain. It's an access to justice transfer for the three territories, so we've rolled together a series of transfers for them. That amount is \$4.1 million, and that's ongoing resources, so it's not being voted in the supplementary estimates (B). It's just a different way of delivering a variety of programs to the territories to make it easier for them to administer it. We call it an access to justice transfer, but a chunk of it goes to criminal legal aid.

[Translation]

Ms. Ève Pécelet: Speaking of legal aid, aspects of it affect refugees, immigration, terrorism and all the other things you mentioned. You mentioned the family support initiative. Legal aid does not exist there. Is it not included in the \$108 million?

Mr. William F. Pentney: No, it is not included. Family assistance is more to do with programs that help families; it is not about paying for lawyers.

Ms. Ève Pécelet: So legal aid does not exist at that level.

Mr. William F. Pentney: The amount I have just told you about is connected with legal aid in criminal matters. Legal aid for civil matters is included in the Canada Social Transfer. So the provinces are responsible for allocating funds for that.

Ms. Ève Pécelet: So there has been no decrease in the contributions for legal aid since 2011?

Mr. William F. Pentney: Since 2011, no.

Ms. Ève Pécelet: I am not a mathematician. I am a politician and I am no expert in financial matters. But, as I do the math, it is about \$120 million. However, in 2010-2011, it was \$132 million. Has the demand gone down?

Mr. William F. Pentney: The demand has certainly not gone down.

Ms. Ève Pécelet: That is what I thought.

Mr. William F. Pentney: Sometimes, some aspects of the program that are about to expire are renewed. Perhaps that is what is happening here. I do not know. Perhaps we can compare the figures.

Ms. Ève Pécelet: So the demand has increased.

Mr. William F. Pentney: In the entire justice system, absolutely. In some areas, there has indeed been an increase in demand.

Ms. Ève Pécelet: Right now, is the department reviewing its strategy to respond to the growing demand for legal aid? Budgets

seem to have been much the same since 2006. So will there be no restructuring of the legal aid program?

Mr. William F. Pentney: In addition to that amount, funds in the department have been set aside for a study on innovation in legal aid and to gather expert advice. That report has just been completed and it is now public.

The provinces are great innovators in legal aid programs. In our federation, the provinces are responsible for the administration of justice. It is difficult for Quebec, Ontario, New Brunswick and Saskatchewan, for example, to share what they are doing in terms of innovation in those programs. We have gathered all the innovation going on in areas such as health, education and the administration of justice, and we are holding meetings with officials and ministers to discuss it.

Ms. Ève Pécelet: When will that study be made public?

Mr. William F. Pentney: It is already posted on our site. We can send you the link.

It is impressive to see just how much innovation has happened in the justice system, but it is difficult to share, to invest, to learn lessons and to increase the value received for the money invested.

As you know, the legal system is based on paper documents at the moment. If you compare the justice system to the methods being used in health care delivery, distance health technology or e-health, you can see that it is a long way behind.

My colleague, who works more closely with the courts, will be able to tell you more about it.

•(1720)

[English]

The Chair: Thank you very much.

Thank you for those questions and those answers.

I have no more questioners, so I want to move to the supplementary estimates (B) votes.

ADMINISTRATIVE TRIBUNALS SUPPORT SERVICE OF CANADA

Vote 2b—Administrative Tribunals Support Service of Canada – Program expenditures.....\$1

(Vote 2b agreed to)

COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

Vote 1b—Commissioner for Federal Judicial Affairs—Operating expenditures.....\$66,419

Vote 5b—Canadian Judicial Council—Operating expenditures.....\$1,600,000

(Votes 1b and 5b agreed to)

JUSTICE

Vote 1b—Operating expenditures.....\$11,040,519

Vote 5b—Grants listed in the Estimates and contributions.....\$38,950,000

(Votes 1b and 5b agreed to)

SUPREME COURT OF CANADA

Vote 1b—Program expenditures.....\$118,300

(Vote 1b agreed to)

The Chair: Shall the chair report votes 2b under the Administrative Tribunals Support Service of Canada, vote 1b and vote 5b under the Commissioner for Federal Judicial Affairs, vote 1b and vote 5b under Justice, and vote 1b under the Supreme Court of Canada to the House?

Some hon. members: Agreed.

The Chair: Thank you very much.

That will be done tomorrow. It won't be done by me. One of my colleagues, Mr. Dechert, is going to do it for us.

Thank you very much for coming today. I know we were interrupted briefly, but I appreciate everyone coming. I think virtually everyone got in a question at least in their area, so I appreciate that.

Thanks very much, and have a good weekend. Happy Thanksgiving. Go Seahawks go!

The meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>