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Chair: Mr. René Arseneault



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• (1100)

[*Translation*]

The Chair (Mr. René Arseneault (Madawaska—Restigouche, Lib.)): I call the meeting to order.

Welcome to meeting number 37 of the House of Commons Standing Committee on Official Languages.

Pursuant to the order of reference of Monday, May 30, 2022, the committee is resuming consideration of Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts.

Today's meeting is taking place in a hybrid format, pursuant to the House order of Thursday, June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

To ensure an orderly meeting, I would like to outline a few rules for members and witnesses.

Before speaking, please wait until I recognize you by name. If you are on the videoconference, please click on the microphone icon to unmute yourself. When you are not speaking, your mike should be on mute.

If you are participating via Zoom, you can access interpretation services at the bottom of your screen by choosing floor, English or French. If you are in the room, you can select the appropriate channel and use your earpiece.

A reminder that all comments by members and witnesses should be addressed through the chair.

Members in the room who would like the floor should raise their hands. Members participating via Zoom should use the “raise hand” feature. The clerk and I will do our best to maintain an order of speaking for all members. Your patience and understanding are appreciated.

Pursuant to our routine motion, I want to let the committee members know that all the witnesses went through the required connectivity tests before the meeting.

I would now like to welcome the witnesses.

First, we have with us the Honourable Michel Bastarache, Legal Counsel, who is appearing as an individual. I would note that he is also a retired judge of the Supreme Court of Canada.

It is always a pleasure to have you with us, Mr. Bastarache.

We also have, from the Office of the Parliamentary Budget Officer, Yves Giroux, Parliamentary Budget Officer, and Katarina Michalyshyn, Analyst.

The witnesses will have five minutes each for their opening remarks. I will strictly limit that speaking time to five minutes. If you run out of time, you will have an opportunity to provide further details on certain points during the period of questions during exchanges with the members.

Mr. Bastarache, you have the floor for five minutes.

Hon. Michel Bastarache (Legal Counsel, As an Individual): Thank you, Mr. Chair.

I would first like to note that many consultations were held before this bill was drafted, and I believe the government has considered the concerns of those who spoke out on the matter. We had an opportunity to react to the white paper and subsequently to the bill itself, and the Standing Committee on Official Languages of the House of Commons and that of the Senate heard a large number of submissions and took note of the amendments that were proposed.

I think that the government already has a very clear idea of the position Canadians have adopted on this bill and that it should pass it as soon as possible. Even though it's said that all bills can be improved, you can't satisfy everyone. What we have is a bill that will markedly improve the official languages situation in Canada, and we should focus solely on the truly decisive issues today. I am all the more convinced that this is the correct approach because I have observed for some time that the problems associated with the Official Languages Act stem mainly from its implementation, not its content. The problems involved in implementing the act are precisely what have motivated calls for its modernization.

Although many people have claimed that the Department of Canadian Heritage has failed to exercise the required supervision in an effective manner, it isn't clear that the problem is structural. I think that the Department of Justice, for example, didn't take appropriate action on the object or scope of part VII of the act, but it clearly can't transfer what was its responsibility to another entity. What's necessary are a clear policy, clear mandates, strict supervision and quick government intervention when abuses occur. All departments and agencies have a duty to be competent and efficient.

It has been difficult to make part VII work under the regime of the present act. It is essential that the new act enable it to play its role. The Commissioner of Official Languages has previously published a guide to interpreting and applying part VII, and the Federal Court of Appeal has also issued a judgment on the matter. The Department of Justice was wrong to dismiss the Commissioner's opinion and to suggest that the courts interpret part VII in a restrictive manner rendering the act ineffective.

The Department of Canadian Heritage needs to leverage federal-provincial agreements to support the vitality of official language minority communities. In particular, it must verify how funding granted to the provinces is actually used. Adopting policies isn't enough. It is also essential to spell out how objectives are to be met. It's also important to specify that the government must not backslide. Every measure that may have a negative impact should be examined and revised if it can't be justified.

Furthermore, I consider it illogical to allow federally regulated businesses in Quebec to choose whether to comply with Quebec's language law or the federal act. First of all, the two language regimes don't share the same basis or objective. The federal government imposes and supports bilingualism and seeks to establish equality between the official languages. Quebec, on the other hand, has only one official language and a tolerance for English that originates in Canada's constitutional statutes. Its aim is accommodation and non-discrimination, not equality.

• (1105)

Second, I fail to see how the role of the Commissioner of Official Languages can be likened to that of the Office québécois de la langue française, or how rights can be created for citizens and workers that differ with the will of businesses. If the federal government wants to intervene in this sector, it should do so without mixing politics and law.

The Chair: Thank you, Mr. Bastarache.

I now give the floor to Yves Giroux or Katarina Michalyshyn, from the Office of the Parliamentary Budget Officer.

Mr. Yves Giroux (Parliamentary Budget Officer, Office of the Parliamentary Budget Officer): Thank you very much, Mr. Chair.

[English]

Good morning, and thank you for the invitation to appear before you today.

We are pleased to be here to present the findings of our report entitled "Cost Estimate for Bill C-13: An Act for the Substantive Equality of Canada's Official Languages", which we were honoured to prepare at the request of the Senate Standing Committee on Official Languages.

With me today is one of our lead analysts on the report, Katarina Michalyshyn.

[Translation]

Of the many provisions set out in Bill C-13, financial implications arise mainly from the proposed extensions of French language rights to federally regulated private businesses. We expect private compliance costs to implement these rights to be \$240 million in

one-time costs plus \$20 million each year in ongoing costs. These costs arise primarily from language training and bilingualism wage premiums for managers in designated bilingual regions outside Quebec.

The 2021-22 Fall Economic Statement allocated \$16 million in 2022-23 for initial implementation costs for federal departments and agencies. The \$16 million does not cover ongoing administrative costs and was not intended to cover those costs. However, it will allow additional initial implementation activities to be undertaken. We requested details regarding how the money is currently being spent.

Despite a lack of cooperation from the responsible departments, we estimate federal administration costs to implement these rights to rise by at least \$2.9 million per year. However, the amount of funding provided is fundamentally discretionary since the activities that can be undertaken in support of the implementation of Bill C-13 will be limited by the funding available.

Ms. Michalyshyn and I will be pleased to respond to any questions you may have regarding this report or other PBO work.

Thank you.

• (1110)

The Chair: Thank you, Mr. Giroux.

Would Ms. Michalyshyn like to add anything?

Mr. Yves Giroux: No, I don't think so.

The Chair: In that case, we will begin the first round of questions, in which each party will have six minutes of speaking time.

I now give the floor to the first vice-chair of the committee, Joël Godin.

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): Thank you, Mr. Chair.

Thanks to the witnesses for being here today.

As we know, our time is limited. I don't want to be disrespectful of Mr. Bastarache, Mr. Giroux or Ms. Michalyshyn, but I would ask them please to provide short and specific answers so I can maximize my time.

My first question is for the Parliamentary Budget Officer.

Mr. Giroux, you mentioned in your statement that you had done your work and produced results despite a lack of cooperation by the departments involved. Which departments were they?

Mr. Yves Giroux: They were Canadian Heritage, the Treasury Board of Canada Secretariat and Immigration Refugees and Citizenship Canada.

Mr. Joël Godin: Mr. Giroux, you are an independent officer of Parliament. On what basis are those departments entitled to refuse to answer you? Given your role, is there a mechanism whereby you can compel departments to answer your questions?

Mr. Yves Giroux: Yes, under the act, I have free and timely access to any information under the control of federal organizations. There are a few exceptions in the act, specifically personal tax information, cabinet proceedings and information subject to solicitor-client privilege.

Those departments argued that the information wasn't in the public domain. However, that's not a sufficient reason for refusing to provide that information.

Mr. Joël Godin: What you're telling me is that the departments gave you nonsensical answers and that their arguments didn't convince you. Those aren't your words, but rather my interpretation of them.

How do you interpret the attitude of those three departments?

Mr. Yves Giroux: I interpreted it generously at first, thinking it was due to a misunderstanding of the mandate of my office and of the statutory exceptions. The departments subsequently changed their minds, but it wasn't until the report was published that they provided us with information that would have enabled us to estimate the costs that would be borne by those departments.

Mr. Joël Godin: Mr. Giroux, can that suggest a lack of seriousness, a division of powers and a resorting to loopholes in order to avoid disclosing financial information that is public? It did concern the money of Canadians.

Can you tell me if you think that showed ill intent on the part of the departments?

Mr. Yves Giroux: There may have been some ill intent, but there also may have been a misunderstanding of the mandate of the Parliamentary Budget Officer and his right of access to information, which is protected under the Parliament of Canada Act. The departments in question would probably be in a better position to explain their intentions and their reasons for refusing to disclose that information.

Mr. Joël Godin: Thank you, Mr. Giroux.

My next question is for Mr. Bastarache.

Allow me to repeat in my own words something you said in your statement, and you may correct me if I misinterpret your remarks. You said that the Department of Justice didn't do its homework in preparing the submission to the court. You said that its level of competence, as it were, wasn't where it should have been to apply the Official Languages Act.

Mr. Bastarache, that shows that there was confusion within the government, regardless of its political allegiance, and that there was a division of powers.

Who can tell the Department of Justice that it has an obligation of result and an obligation of action?

• (1115)

Hon. Michel Bastarache: The real problem is that the Department of Justice and Canadian Heritage, in particular, don't interpret the act in the same way and don't have the same objective either.

The Department of Justice has gone to court twice to argue an extremely restrictive interpretation of part VII. For example, it claimed it could terminate programs promoting the development of

linguistic minorities without contravening part VII, provided the government offered other programs providing that support. So if that's true—

Mr. Joël Godin: I apologize for interrupting, Mr. Bastarache. I'm satisfied with your answer for the moment.

I have another question for you.

You also mentioned that Canadian Heritage should spell out how objectives are to be met. Where in the Official Languages Act does it state that Canadian Heritage must spell out how to achieve the objectives of helping to stop the decline of French and protecting and promoting the French language?

The Chair: Please answer in less than 20 seconds.

Hon. Michel Bastarache: You won't really find provisions like that in the act.

Mr. Joël Godin: There you go.

Hon. Michel Bastarache: It's more in the regulations.

Mr. Joël Godin: Mr. Bastarache, you know that regulations are discretionary and are applied in accordance with the willingness of the people who are in place.

Thank you.

The Chair: Thank you, Mr. Godin.

I now give the floor to Patricia Lattanzio for six minutes.

[*English*]

Ms. Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chairman.

Let me start by saying what a pleasure and privilege it is to have the honourable Justice Bastarache with us today. I will address my questions to him.

Honourable Justice, as you know, Bill C-13 references the charter of the French language in three different places, including the preamble. How do these references to the Quebec legislation violate the constitutional rights of the official language minority, the anglophone community in Quebec, in order for it to fulfill the purpose and the spirit of Bill C-13?

Hon. Michel Bastarache: I think there is no real need to refer to any provincial legislation when we're talking about the objectives of a federal act. In this case it's illogical, because the act in Quebec favours one single common language for Quebecers and accommodates the rights of anglophones, mostly directed by the fact that the Constitution of Canada creates constitutional rights for anglophones, so why would we ask l'Office québécois de la langue française to interpret the act or interpret any kind of action as being favourable or unfavourable to the minority when its object is not bilingualism and is not the equality of both languages?

Ms. Patricia Lattanzio: Thank you.

Do you also see, then, a conflict between the role of l'Office québécois de la langue française and the role of the Commissioner of Official Languages?

Hon. Michel Bastarache: Yes, absolutely.

Ms. Patricia Lattanzio: Okay.

This bill also proposes that we ensure that Supreme Court justices are bilingual. As you know, many Canadians don't have the opportunity to plead their cases and bring them all the way up to the Supreme Court of Canada. I want to hear your opinion with regard to justices at a lower tribunal—for example, a court of appeal. I want to have your input and take on how you see justices at the appellate courts.

• (1120)

Hon. Michel Bastarache: Well, there is already an obligation in the lower federal courts because amendments in 1988 provided that the litigants had the right to be heard directly by the judges who are sitting there. They can address the court in their language, but they must be heard directly and not through translation.

That was a very important amendment in that time.

Ms. Patricia Lattanzio: In terms of the role of ensuring that the law be respected, how would you see the role of the commissioner? Do you think we would have perhaps a tribunal for official languages, just as we have the Canadian Human Rights Tribunal, or do you see it solely in the mandate of the Commissioner of Official Languages?

Hon. Michel Bastarache: I think the creation of a tribunal was already discussed and rejected many years ago. It was suggested at this time that we might look at that possibility again, but in fact a lot of people are afraid that this would add to the cost of litigation and also create more delays.

What happens now is not adequate, especially because the commissioner only makes recommendations. He has no power to implement his decisions or even to go back to the offending agencies to ask them to explain and review their positions. If we keep the system we have, we really must reinforce the commissioner.

Ms. Patricia Lattanzio: In fact, how do we make sure that his powers become executory?

Hon. Michel Bastarache: We do that by amending the act and creating those powers. Then there is always the possibility of judicial review by the Federal Court.

Ms. Patricia Lattanzio: Okay.

I'd like to hear from you on the reinforcement of the linguistic clauses.

You say that the language clauses are essential and just make sure that the central agency, the Treasury Board, oversees that everything is implemented.

However, with regard to the linguistic clauses, what other amendments...or how can we improve these clauses so that we ensure that the government does assume leadership in this regard?

Hon. Michel Bastarache: I don't think it would be in the act, except for defining in a better way the supervisory role of different institutions like the Treasury Board.

In the present situation, it's Canadian Heritage that is supposed to make sure that all the departments have a bilingualism plan and officers who supervise it, but—

[*Translation*]

The Chair: Thank you, Mr. Bastarache. Ms. Lattanzio's six minutes are up. I want everyone to have the same speaking time. You may have an opportunity to come back to this later on with other speakers.

I now give the floor to the second vice-chair of our committee, Mario Beaulieu, for six minutes.

Mr. Mario Beaulieu (La Pointe-de-l'Île, BQ): Thank you, Mr. Chair.

Thanks to the witnesses for being with us today.

My first question is for the Parliamentary Budget Officer, Mr. Giroux.

You said that compliance costs to the private sector and bilingualism bonuses would amount to \$240 million, but I don't think there's anything in the bill requiring private businesses to pay bilingualism bonuses.

Would you please tell us more about that?

Mr. Yves Giroux: Yes, of course.

We considered the wage gap among employees, or rather between bilingual and non-bilingual supervisors. Since there will probably be greater demand for those bilingual employees in the labour market, we assumed that would increase the salaries of employees who become bilingual and who need language training in order to do so. So there's the wage premium component, but that will also increase language training needs as a result of the shortage of bilingual employees in the private sector, which will be subject to the act and will have to meet its requirements.

• (1125)

Mr. Mario Beaulieu: On another note, I'm not particularly surprised when you say you aren't getting much cooperation from the departments. I searched the public accounts for the costs incurred in Quebec under the Official Languages Act, and you can't see what the various grants correspond to. Sometimes it's very hard to get that information.

Do you think we should find a way to make that more transparent?

Mr. Yves Giroux: This is the kind of information that should be readily available, if not in the public domain, at least for parliamentarians like you who have to examine these matters. The information should be readily available to you when you ask these questions.

Mr. Mario Beaulieu: It's very hard when we contact Canadian Heritage, for example, or when we don't get an answer or are redirected to more political stakeholders.

In some cases, there are also errors in the public accounts. For example, for some years, no amounts were recorded for the Canada-Québec accord, under which Quebec has received \$68 million for the anglophone education system and for English-language instruction in francophone schools. It seems to me we would've heard about it if there had been no amounts for those years.

We tried to get information from both Quebec City and Ottawa, and it took a long time. In the end, the English-language services section of Quebec's Ministry of Education confirmed that the funding had been transferred in each year but that they didn't have the exact amounts. We ultimately got them though.

There do seem to be errors in the public accounts because transfers appear to have been made for a number of years for which nothing was recorded.

Do these kinds of errors often occur in the public accounts?

Mr. Yves Giroux: Not to my knowledge. It's surprising that these kinds of errors crop up in the public accounts, given that the government takes a long time to disclose them. Last year, for example, they were published in December. It's almost November now and we still don't have the public accounts, whereas many other governments can publish their public accounts three or four months after the fiscal year ends. The fiscal year ended nearly seven months ago now, and we still don't have the accounts. That suggests that there shouldn't be any errors in them. They should be nearly perfect since it takes a little more time to publish them.

It fortunately isn't something we often see.

Mr. Mario Beaulieu: We could try to check it, but this didn't concern very recent years. It dates back 15 years or so.

I'd like to hear your opinion of the court challenges program. It's very hard to get any information whatever because we're told there are confidentiality issues. But we're talking about public funds, and we can't even find out how much money has been spent in Quebec or the other provinces. We have access to very little information.

My friends at the Fédération des communautés francophones et acadienne du Canada told me that disclosing certain information could also harm organizations if, for example, they filed suit in a case and the provincial government learned they had funding for that.

However, what could possibly prevent taxpayers from finding out after the fact how their money has been spent?

Mr. Yves Giroux: There are definitely legitimate strategies that can be considered for organizations that benefit from the court challenges program. It seems to me there should be a way to disclose at least some of the information by province or, at least, by region to avoid disclosing information that might harm certain groups. There should be a way to do that in a transparent manner by providing information that will definitely be useful to you as parliamentarians in determining whether funding under the program is being properly used.

Mr. Mario Beaulieu: Yes.

Perhaps it would be a good idea for the Parliamentary Budget Officer to conduct a study on the matter because we can't check this. And yet we're talking about public money. This is a concern in

Quebec because it's frequently used against the Charter of the French language.

• (1130)

The Chair: Thank you, Mr. Beaulieu.

Ms. Ashton, you have the floor for six minutes.

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Thank you very much.

Thanks to the witnesses for being here today.

Mr. Giroux, here in the committee, we were told about the underfunding of services to francophone minority communities long before we began studying Bill C-13. There has been talk for years about the decline of French, staffing problems in French-language schools outside Quebec and the shortage of schools, child care centres and health care. The data shows that major investments are necessary.

However, you say in your study on the financial consequences of Bill C-13 that its impact on the government would amount to only \$2.9 million. Why is there an enormous discrepancy between the needs of the francophone communities and government underinvestment in their welfare, based on what's contained in Bill C-13?

Mr. Yves Giroux: That question goes far beyond the scope of the report. In the report, we attempted to estimate the costs to the private sector of implementing Bill C-13. The costs to the federal government to administer the bill were estimated based on the costs of similar, though not identical, federal programs, particularly at the Canadian Radio-television and Telecommunications Commission, the CRTC. We therefore estimated the costs to administer the bill, and those costs entailed a broad discretionary element. The government may decide to go at it full throttle, as it were, or be less rigorous in its administration of Bill C-13. That will be at its discretion.

As for the other aspect of your question, I unfortunately don't have any information on underinvestment, the appropriateness or level of investment in minority language communities. I unfortunately can't comment on that aspect.

Ms. Niki Ashton: Thank you for your answer.

I would also note that the amount of government expenses you cited to us—we understand that it's limited to one aspect—seems very minor when you acknowledge the existing deficiencies and significant demands of the minority language communities in Canada.

I have another question for you. When you appeared in the Senate, you said that no additional funding was planned for the Department of Justice in implementing the measures included in Bill C-13. Is that in fact the case?

Mr. Yves Giroux: Yes, that's what I understood about the funding provided in the 2022 Fall Economic Statement. Unless any new information has been submitted to us, that's the situation as I understand it now.

Ms. Niki Ashton: Thank you.

Thank you for being here, Mr. Bastarache.

If no additional funding is planned to ensure that justice is rendered fairly in both of Canada's official languages, will it be possible to obtain justice in Canada within the same timeframes in English and in French?

Do you think the bill will be enough to increase the number of services provided in French if no further investment is deemed to be required to implement Bill C-13?

Hon. Michel Bastarache: A distinction has to be drawn between what is spent at the provincial level and at the federal level. The federal government funds services in French solely in the federal courts, that is the Tax Court of Canada, the Federal Court, the Federal Court of Appeal and the Supreme Court of Canada.

An exception is made in criminal law. A person may request a trial in his or her language across Canada, but only at the trial level. Consequently, I find it somewhat surprising that there is no right to appeal in the language in which a defendant was heard at trial. We have always been told that this was because there aren't enough bilingual judges, but judges have been taking language training for at least 25 years. That's remarkable. I also don't understand. I've conducted studies on official languages in other countries, and I know of no other country where defendants don't have a right to an appeal hearing in their own language following their trial.

• (1135)

Ms. Niki Ashton: That's a concern. Thank you for what you're telling us.

I have a final question, which will be for Mr. Giroux.

When you appeared in the Senate, you said you thought there would be two possibilities if the government didn't provide permanent funding to implement Bill C-13: either the departments would have to make cuts elsewhere in order to comply with the act or they would have to comply with it in minimal fashion.

When we know, for example, that the government's francophone immigration policy has failed monumentally, why wouldn't the application of Bill C-13 result in additional investments in Africa, where we should open more consulates to promote francophone immigration?

Mr. Yves Giroux: That's a—

The Chair: That's an excellent question, Ms. Ashton, but you will have to wait for an answer during another round of questions.

We will now go to the next round of questions, in which each member will have five minutes.

The first member on the list is our new committee member, Mr. Vis.

Mr. Vis, you have the floor for five minutes.

Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC): Thank you, Mr. Chair.

I would like to yield the first minute of my time to Mr. Godin.

Mr. Joël Godin: Thank you Mr. Vis, and welcome to the committee.

Mr. Chair, the Parliamentary Budget Officer told us earlier that the departments hadn't cooperated and had provided information after he had prepared his report. So there was a delay, and I think that information is important. Mr. Giroux also mentioned that this information should be made available to us as parliamentarians.

Mr. Chair, with your permission, I would like to introduce a motion, which reads as follows:

That, in relation to its consideration of Bill C-13, the committee reiterate its invitation to appear of Thursday, October 6, 2022, to the ministers of Official Languages, Canadian Heritage, Treasury Board of Canada Secretariat and Immigration, Refugees and Citizenship Canada.

The Chair: Just a minute, Mr. Godin.

I didn't hear the second part of your motion.

Mr. Joël Godin: Where did the second part start?

The Chair: You ended with "and Immigration, Refugees and Citizenship Canada".

Is that correct?

Mr. Joël Godin: Yes.

You heard it all.

That, in relation to its consideration of Bill C-13, the committee reiterate its invitation to appear of Thursday, October 6, 2022, to the ministers of Official Languages, Canadian Heritage, Treasury Board of Canada Secretariat and Immigration, Refugees and Citizenship Canada.

The Chair: Any questions about the motion?

Mr. Joël Godin: Pardon me, Mr. Chair. I'm being corrected.

It's November 6.

The Chair: Yes, I had heard October 6.

So it will be November 6.

The motion is clear to everyone.

Are there any questions about the motion from those participating by videoconference or who are in the room?

Mr. Francis Drouin (Glengarry—Prescott—Russell, Lib.): I would like to raise an objection.

I welcome my colleagues' willingness to work very hard, even on the Lord's Day, but November 6 is a Sunday. So my question is, do we want to sit on a Sunday, and do we have the resources to do so?

The Chair: Go ahead, Mr. Godin.

Mr. Joël Godin: My motion will be corrected. I apologize for the confusion this has caused. October 6 was in fact the date on which the motion that the ministers appear before the committee was introduced. We are reiterating that invitation to the ministers to appear before us as soon as possible.

The Chair: As I understand it, you are reiterating the motion of October 6 without stating a date.

Mr. Joël Godin: Yes, no date is indicated because I believe that, one day, those ministers will be in good faith and come during the study, not after it.

• (1140)

The Chair: All right. The motion is clear.

Are there any questions about this motion, whether asked virtually or in person?

Go ahead, Mr. Serré.

Mr. Marc Serré (Nickel Belt, Lib.): I want to clarify a few matters. We have nothing in writing. Has the motion been sent to the clerk? Can we receive a copy of it? I want to know if that's what we've already done.

Yes, the ministers are in good faith, Mr. Godin. They'll be here

Having said that, I'd like to see how the motion is worded.

Mr. Joël Godin: The clerk has the motion in her hand.

The Chair: We will allow the team the time to draft it. As I understand it, this is the same motion as that of October 6. We're just reiterating it.

Is that correct, Mr. Godin?

Mr. Joël Godin: Actually, it isn't the same. It's a different motion, which refers to the one of October 6.

The Chair: While we wait for the team to send us the duly drafted motion, I'd like to know if there are any other questions.

Mr. Francis Drouin: I'd like to move a friendly amendment. I welcome my colleagues' efforts, but I would simply add this: "... and that the bill be reported to the House before Christmas."

In that case, we would support the motion.

The Chair: Any questions on the amendment?

Mr. Francis Drouin: The idea would be to report the bill to the House before Christmas.

Mr. Joël Godin: May I speak, Mr. Chair?

The Chair: Mr. Drouin's amendment has just been moved, and Mr. Goldman wishes to speak.

Go ahead, Mr. Godin.

Mr. Joël Godin: I want to go back to the amendment that Mr. Drouin moved concerning the deadline for reporting the bill to the House of Commons.

I've always said we should speed up the process. The Conservative Party is working in cooperative fashion. We've often said we were ready to add meetings. However, that doesn't seem feasible. We're not going to pick up the pace only to botch the job. We're talking about what's going to be a historic bill.

I can't accept the amendment my colleague is moving. Mr. Chair, I would point out that our intention is to begin clause-by-clause consideration of the bill before Christmas. That's our intention, but I'm not managing our time. We adopted a motion providing that the situation will be reassessed after 20 meetings. We're now on our 11th meeting.

The Chair: As I understand it, you don't want to move an amendment to the amendment moved by Mr. Drouin but rather to raise an objection.

Does anyone else wish to speak to this?

Mr. Mario Beaulieu: I'm also opposed to the amendment.

We entirely agree that we should speed up the process. I've checked with our whips to see whether it would be possible to hold more meetings. I said we had discussed that in committee. However, our party's whip told me she hadn't received a request regarding this matter. I don't think the process is being delayed by the opposition.

It's important to do things right regarding our debates. I would point out that none of the amendments that the Quebec government has requested have been adopted and none of the main amendments proposed by the Quebec groups defending French have either.

The Chair: So I understand why you're opposed to it, Mr. Beaulieu.

Go ahead, Ms. Ashton.

Ms. Niki Ashton: I also think the amendment makes no sense. We have to do the clause-by-clause consideration of the bill before reporting it to the House. We have to do that efficiently as soon as possible.

The request to hear from the key ministers is a request made by every committee that has a bill it needs to study. I wonder why the Liberal members don't want to hear from the ministers as soon as possible.

• (1145)

Mr. Francis Drouin: Mr. Chair, may I speak?

The Chair: Since this is your amendment to Mr. Godin's main motion, I give you the floor, Mr. Drouin.

Mr. Francis Drouin: I don't want to spend too much time discussing this amendment. I request the committee's unanimous consent to withdraw it. That way, we can quickly vote on Mr. Godin's motion and get back to our agenda.

Thank you, Mr. Chair.

Mr. Joël Godin: You have the Conservative Party's consent to withdraw the amendment, Mr. Chair.

The Chair: All right.

A brief aside, if I may. I just saw that Mr. Iacono's hand is raised.

Do you wish to speak to this matter, Mr. Iacono?

Mr. Angelo Iacono (Alfred-Pellan, Lib.): I wanted to address the subject of my colleague opposite who mentioned inviting the ministers.

I've attended all our meetings and, to my knowledge, the Liberal members have never said they didn't want to bring in the ministers. She should withdraw her comments, because—

Mr. Joël Godin: I have a point of order, Mr. Chair.

The Chair: Just a moment, please.

Let's get back to where we were in chronological order.

Mr. Drouin requests unanimous consent to withdraw his own amendment.

Does he have the committee's unanimous consent?

Then we will move on to Mr. Godin's point of order.

Mr. Joël Godin: Actually, if the amendment is withdrawn, I can withdraw my point of order, Mr. Chair.

The Chair: All right.

I see no hands raised on the screen, and I believe we have unanimous consent in the room.

Madam Clerk, would you please confirm unanimous consent?

The Clerk of the Committee (Ms. Michelle Legault): I confirm unanimous consent, Mr. Chair.

The Chair: The amendment moved by Mr. Drouin to the main motion is withdrawn.

Are we ready to rule on Mr. Cohen's motion?

Mr. Joël Godin: Mr. Chair, there seems to be unanimous consent in the room.

The Chair: To speed things up, I will put the question to the members in the meeting room.

Do we have unanimous consent to adopt Mr. Godin's motion?

Some hon. members: Agreed.

The Clerk: Mr. Chair, I confirm unanimous consent.

The Chair: I see no objections on screen.

The motion is carried.

Mr. Mario Beaulieu: I have a point of order, Mr. Chair. I hope we won't delay the witnesses in the second hour.

The Chair: Thank you for your comment, Mr. Beaulieu.

We have 10 minutes left before we hear from the witnesses.

I will now move on to the next question.

I believe Mr. Drouin has the floor.

Mr. Joël Godin: No, Mr. Chair. My new colleague, Mr. Vis, shared his time with me, and I used no more than one minute of that time.

Mr. Angelo Iacono: I have a point of order, Mr. Chair.

I was saying something and I was interrupted by a point of order and the vote on Mr. Godin's motion. I would like to finish making my comment and to have the time to do so.

The Chair: Go ahead, Mr. Iacono.

Mr. Angelo Iacono: The comment was made that Liberal members didn't want to hear from the ministers, but we've never been opposed to hearing from the ministers in committee at any of the meetings I have attended. It's simply a question of availability. I wanted to put that on record.

As you've seen, we agree on the motion.

Mr. Joël Godin: A point of order, Mr. Chair.

The Chair: Mr. Godin, we will let Mr. Iacono finish his comment.

You will have the floor after Mr. Iacono.

Mr. Angelo Iacono: Thank you, Mr. Chair.

I just wanted to clarify a point concerning the allegation that Liberal members don't want to hear from the ministers in committee.

Mr. Joël Godin: I have a point of order, Mr. Chair, because the information my colleague is providing is false. It was said before the committee that the Minister of Canadian Heritage didn't want to come and testify. So I think my NDP colleague's comment was entirely appropriate.

Mr. Angelo Iacono: A point of order, Mr. Chair.

• (1150)

The Chair: Go ahead, Mr. Iacono.

Mr. Angelo Iacono: That information comes from one person, and I can't attest to its veracity.

Before we wind up the discussion, we should ask the Minister of Canadian Heritage exactly what happened. I can't confirm that's the case since I haven't yet spoken to the office of the Minister of Canadian Heritage. If we want to be fair, we should speak to both parties before concluding that was in fact the case.

The Chair: All right.

Since we have less than 10 minutes until the end of the public meeting, I'll have to shorten everyone's speaking time so we can finish the second round of questions. I'll allow the next speaker three minutes and the other parties a minute and a half.

Is everyone in agreement?

Mr. Joël Godin: We are always ready to cooperate, Mr. Chair.

The Chair: All right.

Mr. Vis, you have the floor for two minutes.

Mr. Brad Vis: Thank you, Mr. Chair.

Thanks to the witnesses for being here.

I'm looking at this bill from the standpoint of the beautiful province of British Columbia. I come from a region of the country where not many people speak French.

Mr. Bastarache, do you think the bill will make it harder to appoint a judge from British Columbia to the Supreme Court?

Hon. Michel Bastarache: I think there are enough qualified individuals in all the provinces and regions of Canada to be able to appoint nine judges to the Supreme Court.

Mr. Brad Vis: The people of British Columbia have another concern about the bill, and that's the relationship between theory and practice. British Columbia currently doesn't apply the Official Languages Act.

Will the new rules and obligations under the bill make the province more bilingual?

Hon. Michel Bastarache: The federal act doesn't concern British Columbia's institutions; it concerns the federal institutions in British Columbia.

Personally, I don't think many additional obligations have been created; the bill simply clarifies language rights in order to improve the act's implementation. I don't think that's a problem.

Mr. Brad Vis: I see.

The Chair: Mr. Vis, your time is up.

Mr. Drouin, you have the floor for three minutes.

Mr. Francis Drouin: Thank you very much, Mr. Chair.

Thanks to the witnesses for being here.

My first question is for Mr. Bastarache. It's an honour to have the opportunity to ask him a few questions.

The appointment of bilingual judges to the Supreme Court has been debated at length since 1988, when parliamentarians were already trying to determine whether they should give the legal community a chance to learn a second language. That argument was advanced at the time to avoid requiring Supreme Court judges to be bilingual.

Now we're discussing section 16 of the Official Languages Act. A few years ago, the debate was about whether Parliament had the authority to legislate on the composition and nature of the Supreme Court.

Do you think it's constitutionally correct to apply section 16 to the Supreme Court?

Hon. Michel Bastarache: Absolutely.

The Supreme Court was created by federal statute long after Canada was founded, and that statute is the one that establishes the criteria. The Constitution merely provides that there is a Supreme Court. That's obviously from the Constitution Act, 1982, not that of 1867.

Now, I want to emphasize that we must adopt the litigants' point of view, not that of the judges or judicial candidates, in determining what should be done. Do all the citizens of Canada who speak either of the two official languages have equal access to the Supreme Court if its judges can't understand them directly? The answer is no.

I sat on the Supreme Court for 11 and a half years, and, during that time, there were at least two judges who couldn't read the briefs or even judgments written in French before voting, because the judgments aren't translated until they've been approved by the

judges. The Canadian Bar Association therefore proposed something that I thought was utterly unacceptable. It maintained that it was sufficient to have bilingual judges sitting only when the court was hearing cases in French. That's not equality either. It changes matters because there are tendencies within the Supreme Court. There are groups that vote one way or another in somewhat ideological fashion. All judges must therefore be qualified in order to sit in all cases.

• (1155)

Mr. Francis Drouin: Thank you very much.

The Chair: Thank you very much, Mr. Bastarache and Mr. Drouin.

Mr. Beaulieu, you have the floor for a minute and 30 seconds.

Mr. Mario Beaulieu: Mr. Bastarache, I must say, as a kind of preamble, that I found it somewhat insulting that you said, or suggested, that English was tolerated in Quebec, whereas the anglophone institutions there are overfunded by the Quebec government. The anglophone minority in Quebec can't be compared in any way with minorities outside Quebec.

In that connection, here's what the United Nations Human Rights Committee stated in a decision in 1993: "A group may constitute a majority in a province but still be a minority in a State and thus be entitled to the benefits of article 27 [of the covenant]. English speaking citizens of Canada cannot be considered a linguistic minority." The UN that said that.

The groups that challenge the Charter of the French language are funded under the Official Languages Act. Virtually all funding granted under the act is used exclusively to strengthen English, anglophone institutions, anglophone pressure groups and English-language instruction in francophone institutions.

Hon. Michel Bastarache: I never mentioned tolerance; I said it was an accommodation.

And it is one, simply because the Quebec act provides that there is only one official language and that it's the common language of the Quebec community or people. The premier of Quebec repeated that throughout the last election campaign. It isn't an insult; it's simply a fact. The same is true in the other provinces. Is it—

Mr. Mario Beaulieu: What about the UN decision?

Hon. Michel Bastarache: The UN decision has nothing to do with that.

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

Ms. Ashton, you have the floor for a minute and a half.

Ms. Niki Ashton: Thank you.

I'd like to go to Mr. Giroux again and go back to the question I asked during the last round.

How do you explain how the new policy under Bill C-13 wouldn't result in increased costs to attract francophone immigrants from Africa, for example?

Mr. Yves Giroux: That's a question that's unfortunately beyond the scope and perspective of the report. It depends more on the government's immigration policy, on which I unfortunately haven't recently published a report. Nor would I be the person most qualified to say whether the government should make additional efforts to attract francophone immigrants or make the necessary investments for that purpose.

Ms. Niki Ashton: I understand.

I want to emphasize that it's an investment that has to be made. An amount of \$2.9 million is a negligible investment.

To ensure that a bill as important and historic as this one is implemented, we obviously have to make significant investments of more than \$2.9 million to stop the decline of French and strengthen the measures that francophone communities across the country need.

I think that's all the time I had.

• (1200)

The Chair: You have 15 seconds left.

• (1205)

Ms. Niki Ashton: I want to thank the witnesses for the important points they've raised before our committee.

Thank you.

The Chair: Thank you, Ms. Ashton.

That completes the two rounds of questions.

Thanks to the witnesses.

As Ms. Ashton and all the members here have said, we are truly privileged to have you with us today.

Mr. Bastarache, Mr. Giroux and Ms. Michalyszyn, if you feel you have any more information that should be provided to us further to the questions that were put to you and the answers you may not have had a chance to give for lack of time, please send that information to our clerk, and she will forward it to all the members of the committee. Please feel free to do so.

Having said that, I will suspend to give the next panel of witnesses time to settle in.

We are suspended.

• (1205)

(Pause)

• (1205)

The Chair: We will resume.

I would like to outline a few rules for the new witnesses in this second hour.

Before speaking, please wait until I recognize you by name. If you are on the videoconference, please click on the microphone icon to unmute yourself. Please mute your mike when you are not speaking. That prevents interference.

For interpretation, those participating through Zoom have the choice, at the bottom of their screen, between three channels: floor, English or French.

Members attending in person in the room can use their headset after selecting the channel desired.

A reminder that all comments by members and witnesses should be addressed through the chair.

I will allow each witness five minutes, no more, for their presentation. Should you run short of time, you will be able to clarify your points during the period of questions.

Having said that, I want to welcome the witnesses.

We have with us Patrick Taillon, Professor and Associate Director of the Centre for Constitutional and Administrative Law Studies of the Faculty of Law at the Université Laval.

We also have two representatives from the Association canadienne-française de l'Alberta, or ACFA, Pierre Asselin, President, and Isabelle Laurin, Executive Director.

You will each have five minutes for your presentation.

To start off, I give the floor to Mr. Taillon for five minutes.

Mr. Patrick Taillon (Professor and Associate Director of the Centre for Constitutional and Administrative Law Studies, Faculty of Law, Université Laval, As an Individual): Mr. Chair, I want to thank the committee for inviting me to appear.

The federal government does much, indeed very much, to protect and promote French in its institutions. The thrust of my remarks today is not to criticize the extent of the efforts it has made. What I want to focus on is the importance of properly targeting those efforts. The federal government, in practice, has been a very poor partner and has practised very little cooperative federalism in linguistic matters.

In the Official Languages Act, the federal government has stubbornly focused on the two official minorities without taking into consideration the fragile nature of French in its majority position in Quebec, where its decline is becoming clearer and accelerating. Bill C-13 is designed in part to correct that problem, but I'm quite concerned that the solutions being put forward here remain only partial.

Federalism, by definition, inevitably presupposes the coexistence of several language regimes and policies. To achieve a degree of harmony and consistency, there must be an obligation to cooperate in the greater public interest. In the case of Canada, even the Constitution, which is both the supreme law of the land and the common act of all federal and federated entities, provides for asymmetrical language regimes and obligations.

The case before us today is that of Quebec. As section 90Q.2 of the Constitution Act, 1867, now expressly provides, Quebec is the only province and territory in Canada and North America where French is the official and common language. Quebec is the only jurisdiction where French is still, even today, in the majority, despite its decline.

Like the federal government, Quebec obviously has constitutional obligations toward its historical anglophone minority. It is important to reassure that minority. Neither the Official Languages Act nor the Charter of the French language can alter the rights guaranteed to Quebec's anglophone minority under the Constitution.

That being said, the central issue is the compatibility of language regimes. We must learn to harmonize, combine and supplement each other's efforts in order to refrain from putting Quebec in a situation where it must choose between advocacy of its own interests and its necessary solidarity with minority francophones elsewhere in Canada. We no longer want a federal policy that antagonizes or divides certain communities by pitting them against each other. Bill C-13 is an attempt to correct this situation, and that's a very good thing.

However, to ensure that this intention or will of legislators is asserted, I would like to take the few moments I have left to outline four solutions that are designed to make the act more harmonious and to combine all these efforts.

First, in addition to the preamble to the act, in which a significant intention is stated, the bill must also include an interpretive provision and criteria. In that provision and those criteria, and in the powers that are delegated to the executive to make regulations and take measures, it is important that the act reiterate the express recognition of the objective of substantive equality and thus of differentiated treatment based on situation. It must also reiterate the federal legislator's intent to halt the decline of French in Quebec and to contribute to—

• (1210)

The Chair: You have less than 30 seconds left, Mr. Taillon.

Mr. Patrick Taillon: Second, with regard to the integration and francization of immigrants, the federal government rightly requires, in another act, that a language knowledge test be administered to all new Canadians. By granting them a choice of language, it undermines Quebec's efforts and capacity to integrate newcomers. That obligation must be maintained but adapted to Quebec's specific situation.

I will take my five remaining seconds to add that the federal spending power should also—

The Chair: Mr. Taillon, you will have ample time during the period of questions to develop your four points.

I now give the floor to the ACFA representatives, Ms. Laurin and Mr. Asselin.

You have the floor for five minutes.

Mr. Pierre Asselin (President, Association canadienne-française de l'Alberta): Thank you, Mr. Chair.

Good afternoon, everyone. My name is Pierre Asselin, and I am the president of the Association canadienne-française de l'Alberta, or l'ACFA. I am accompanied here in Edmonton by our executive director, Isabelle Laurin.

Thank you sincerely for this invitation to appear before you today. The work your committee is doing is invaluable for the future of French in Alberta and elsewhere in the country. The moderniza-

tion of the Official Languages Act is key to ensuring the act's success.

ACFA has defended the gains that Alberta's francophone community has made, promoted its rights and supported its vitality since 1926—our centenary is coming up. ACFA represents more than 260,000 French-speaking Albertans, a population that grew more than 50% from 1991 to 2021. Despite this major success in Alberta, due in large part to a thriving economy in recent years, we are concerned about the decline that data from the 2021 census clearly shows in the Canadian francophonie. This is why amendments must be made to the Official Languages Act without delay. There is a truly urgent need for action. I don't want the next generation to find itself sitting here having the same conversation.

As a member of the Fédération des communautés francophones et acadienne du Canada, the FCFA, ACFA supports the broad outlines of Bill C-13 and reiterates its support for the improvement proposals our federation has made. In recent months, the FCFA and all its members have held numerous meetings with parliamentarians and have outlined the improvements they would like to see.

I would like to take advantage of my appearance here to review what we consider are two essential improvement proposals: first, the addition of language clauses and, second, the necessary clarification of francophone immigration policy.

First, with respect to language clauses, when the federal government proposes new funding for specific initiatives, there is no formal mechanism for ensuring that funding is also allocated to the francophone communities. Consider, for example, the recent November 2021 agreement on \$10-a-day child care services. We need child care services for young francophones here as well, but we are subject to the goodwill of provincial governments, and we need to invest considerable human and financial resources to prepare the necessary submissions. We would therefore like to see an obligation added to the bill to include language clauses in federal transfers to the provinces and territories, along with the option that the federal government may consider dealing directly with francophone communities where a province or territory rejects such clauses. That's important for us in Alberta given our history. The option of dealing directly with francophone communities would take into account the fact that the federal statute may not be able to bind the provinces to these types of language clauses.

Second, we would like it clarified that the new francophone immigration policy shouldn't merely contribute to maintaining or increasing our demographic weight, but that it should also establish a specific objective of restoring francophones' demographic weight. By that, we mean restoring rather than maintaining. An ACFA study has revealed a need for restorative francophone immigration targets to address the demographic decline of the francophonie. The last attempts at doing so were made far too long ago.

Those two changes would make an enormous difference in the everyday lives of French-speaking Albertans by correcting the decline in the demographic weight of francophones and guaranteeing access to provincial services in French. These are essential factors in supporting the vitality of our communities and combating assimilation, which is the aim of everything we're doing today.

ACFA has been working on this issue for nearly six years. On December 8, 2016, during consultations for the Action Plan for Official Languages 2018-2023, a plan that's about to expire, the Minister of Official Languages at the time, the Hon. Mélanie Joly, asked our president, Jean Johnson, what she could do to have a major impact. When he dared to propose modernizing the Official Languages Act, she personally invited him to share that idea with a full room of incredibly excited people. Since then, within ACFA alone, in addition to Jean Johnson, the message has been spread by the various presidents of our association: Albert Nolette, Marc Arnal, Sheila Risbud and now yours truly. I hope the task doesn't eventually fall to my children.

In the meantime, the House of Commons and the Senate have released many reports, all political parties have made commitments, a reform document has been published, and two bills have been introduced. And here we are once again discussing the modernization of the act and what francophone minority communities would like to see incorporated in new legislation. We've been discussing this issue and sharing our dreams, aspirations and needs for more than 2,000 days now. It's time to stop discussing the details. With all due respect, it's time for our elected representatives to act.

● (1215)

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

As I told Mr. Taillon, you'll be able to clarify your points in response to questions.

In the first round of questions, each party will have six minutes to interact with the witnesses. I am very strict about speaking time because that lets everyone ask the questions they have prepared. I apologize if that makes you feel rushed. The members of the committee are used to it.

The first questions will come from the first vice-chair of the committee.

Mr. Godin, you have the floor for six minutes.

Mr. Joël Godin: Thank you, Mr. Chair.

Thanks to the witnesses for taking part in this exercise this morning to help make us better and make Bill C-13 a better bill.

Mr. Taillon, can you tell me, yes or no, whether Bill C-13 would achieve the Conservative Party's three objectives, which are to stop the decline of French, to protect both official languages and to promote them, knowing that French is the more vulnerable language?

Mr. Patrick Taillon: We'll have to assess the impact of the act in a few years.

First of all, putting names on things and acknowledging that French, which is in a majority position in Quebec, is nevertheless in decline is a first step. The fact that the federal government is now

part of the solution and not the problem, which previously wasn't clear in the act, is a new shift in the bill.

However, I'm troubled by an ambiguity here, which I brought up in the first of my four solutions. And that's the way the legislator seeks to confine the matter to a preamble. The preamble isn't really part of the act. It's as though Parliament wanted to leave some room for interpretation, for the courts. The judiciary would either confirm the importance that must be attached to this new shift or make the claim, since it's confined to the preamble, that it's not really the law.

That's why I propose in the first solution that the new shift in the preamble be clearly expressed in an interpretive provision. In addition, where there are delegations of authority, since the government is responsible for many matters, that authority should be exercised in accordance with certain criteria, one of which is the new shift that we're describing together.

● (1220)

Mr. Joël Godin: Thank you, Mr. Taillon.

My understanding is that the bill doesn't achieve the objectives very effectively.

Mr. Patrick Taillon: We could do better.

Mr. Joël Godin: That's why we're working together.

You said that the preamble wasn't strong enough.

Would you say a preamble to a bill has the same force as regulations?

Mr. Patrick Taillon: No, we aren't sure of that.

For example, the preamble to the Constitution Act, 1867, which states that we have a constitution based on the same principle as that of the United Kingdom, is a preamble to which the courts have attributed enormous effects and consequences.

Mr. Joël Godin: I understand.

Mr. Patrick Taillon: The courts disregard the preamble in other cases.

Mr. Joël Godin: All right.

You're saying that a preamble isn't the same thing as regulations. They don't have the same force or function in a bill or in its application.

Can we amend regulations quickly without making a new law? Are regulations based on a government's intentions?

Mr. Patrick Taillon: Yes, regulations can readily be amended without any contribution from parliamentarians. That's why, when parliamentarians delegate powers to the government, they have to use specific words to frame those provisions. That's why I think this requires a little refinement.

The preamble can be very useful but may also serve no purpose. It's the court that decides. So it's unpredictable.

Mr. Joël Godin: That's why we want to take the time to draft the act correctly so it can stand the test of time and so other parliamentarians and members of government who follow us will further the three objectives, which are to stop the decline of French, and to protect and promote both official languages. That's why we're emphasizing this.

However, the government party says it intends to draft an acceptable bill and that, if anything requires improving, it can do so by means of regulations. The Conservative Party doesn't agree with that, and you just confirmed that our vision is probably very sensible.

Mr. Asselin, earlier you said that urgent action is required.

The Liberal government has been in power for 2,000 days, if my calculation is correct. What does the word "urgent" mean to you? Does it mean a week, month, six months, a year or 10 years? Can you give me a timeframe?

Mr. Pierre Asselin: Yes.

We've been talking about this since 2016, and I absolutely don't want it to take a generation. I frankly think we're getting lost in the details. Perfection is the enemy of the good. It's time to pass the bill. One year is far too long. In 10 years, I hope we'll be on to the next review of this plan, even if it's imperfect.

Mr. Joël Godin: All right. I understand you want us to take action, to pass the bill and to make corrections as we go. You're signalling no.

Mr. Pierre Asselin: There are significant elements, those stated by the Association canadienne-française de l'Alberta, that we would like to see included in the bill. If the bill contains those elements, it can move matters forward, even if it's imperfect.

The Chair: You have less than 30 seconds left, Mr. Godin.

Mr. Joël Godin: All right.

Is it an essential condition that the Treasury Board be the central agency responsible for ensuring that each of the government departments discharges its obligation of result?

Mr. Pierre Asselin: That's what will really change matters—

Mr. Joël Godin: Is it an essential condition? I'm asking you the question, Mr. Asselin.

Mr. Pierre Asselin: No. The condition is really the language clauses issue—

Mr. Joël Godin: All right. So it's the language clauses that are the essential condition, and the agency is less important.

However, are the language clauses your priority?

Mr. Pierre Asselin: Absolutely.

The Chair: Thank you, Mr. Godin. Your time is up.

Thank you, Mr. Asselin and Ms. Laurin.

Mr. Joël Godin: Thank you, Mr. Asselin.

Mr. Pierre Asselin: Thank you.

The Chair: You may be able to discuss this further later on.

Mr. Iacono, you have the floor for six minutes.

• (1225)

Mr. Angelo Iacono: Thank you, Mr. Chair.

Thanks to the witnesses for being here this afternoon.

I'll go to Mr. Taillon first.

The protection of linguistic minorities and the promotion of the French language have always been a priority for our government since our first term. In that spirit, we strongly opposed any cuts to funding for the Université de l'Ontario français, and we're making every effort to support the vitality of the francophones of New Brunswick, Manitoba, Alberta and elsewhere.

In the interview you gave journalist Philippe Murat, you said that Quebec's wish that the Constitution of Canada also provide that Quebec is a nation and that its language is French constitutes no threat to the language rights of the francophone and Acadian communities of Canada or those of the anglophone majority in Quebec.

If New Brunswick, for example, decided tomorrow morning to take the same action as Quebec to establish that its sole official language was English and that no public services could be offered in another language, how would you plan to protect the francophone minority in accordance with the Constitution and the Canadian Charter of Rights and Freedoms?

Mr. Patrick Taillon: Mr. Chair, I would like to answer the question, but it's based on false assumptions.

The provinces have limited capacity to amend the 1867 act. Quebec has the capacity to define itself but not to amend the rights that are guaranteed to the anglophone minority under section 133 and that are, in a way, intangible. So—

Mr. Angelo Iacono: I apologize for interrupting, Mr. Taillon, but how do the provinces have that capacity?

Mr. Patrick Taillon: It's provided for under the Constitution Act, 1982, which states that authority to amend the Constitution is exercised through five types of procedures, each of which involves different actors.

So as regards the part of the question concerning New Brunswick, my answer is that the bilingualism guarantees that, I believe, are provided under section 16.1 of the Constitution Act, 1982, and that have become applicable relatively recently, in the 1990s, were adopted with the consent of the federal government and can only be amended together with it, and the same is true of the guarantees afforded to Quebec anglophones under section 133. Consequently, New Brunswick and Quebec can't exercise their autonomy with regard to constitutional amendments to the same extent as in the scenario you describe.

Saying that Quebec's only official language is French may obviously raise concerns, but, in real terms, you have to read this section as though it means the following: subject to the rest of the Constitution and the rights expressly named in section 133, Quebec's common and official language is French. These provisions must therefore be reconciled with each other. Quebec definitely can't amend them unilaterally.

Mr. Angelo Iacono: Thank you.

My next question is for Ms. Laurin and Mr. Asselin.

How will Bill C-13 and the next action plan benefit your community?

Mr. Pierre Asselin: Thank you for your question, Mr. Iacono.

Further to my presentation and to express our point of view, I'd say that it depends on the inclusion of language clauses, which are incredibly important. We all know the history of the governments of Alberta. If restorative targets can be adopted for francophone immigration, the bill will substantively change matters on the ground.

As I just mentioned, the sooner the better.

Mr. Angelo Iacono: Thank you.

My next question is for you Ms. Laurin, or, once again, you, Mr. Asselin. It's up to you to decide.

How can the federal government better protect and promote French in places such as Alberta where French is in the minority?

• (1230)

Mr. Pierre Asselin: I'm repeating myself, but it's impossible for me to say just how important language clauses are. They are important in all fields, whether it be mental health services, child care services or early childhood services. These are all services that we need. We have the necessary population, but the problem is that we need services. Federal government support must be provided differently to ensure that the francophones of Alberta or other citizens who don't receive support from the province get their share. There has to be a mechanism whereby the federal government continues to support citizens in all provinces.

Mr. Angelo Iacono: Bill C-13 doesn't provide for the adoption of binding language clauses in federal-provincial-territorial agreements. Should it do so?

The Chair: You have less than 10 seconds left.

Mr. Pierre Asselin: It absolutely should. That's stated in what our federation, the Fédération des communautés francophones et acadienne, submitted to you.

Mr. Angelo Iacono: Thank you, Mr. Chair.

The Chair: Thank you, Mr. Iacono and Mr. Asselin.

I now give the floor to Mr. Beaulieu for six minutes.

Mr. Mario Beaulieu: First, I'd like to thank the witnesses for being with us.

Mr. Taillon, you weren't able to complete your presentation. There were four points. I'd like to let you finish what you started.

Mr. Patrick Taillon: I discussed the first point with Mr. Godin. To sum it up in a single sentence, I'd say that the intention ex-

pressed in the preamble to the act should also be reflected elsewhere in that act.

The second point concerns the intake, integration and francization of immigrants. The federal government has established a language test requirement in its citizenship legislation, which is significant. It gives people across Canada a choice. However, that standard, which makes sense, shouldn't be applied, in Quebec's case, to help slow the decline of French within its borders or to increase its capacity to take in new immigrants. That might enable Quebec to maintain the pace of intake in the rest of Canada.

As regards the third point, we must all be aware that the Official Languages Act has an extension in the form of the federal spending power. However, that power partly intrudes into the provinces' jurisdiction. For there to be true cooperative federalism, there must be a federal-provincial agreement on this issue, that is to say on the spending power associated with the official language policy, at least in Quebec's case.

We could hope for, and one day obtain, a right to opt out with compensation. I don't want to give the impression of being out of step with the other witnesses, but we must be aware of the impact of language clauses within Quebec. By that I mean the imposition of language clauses not specifically provided for under the act or an agreement between Quebec and the federal government. In some instances, the federal government requires private businesses and individuals to meet a standard of bilingualism that is at odds with the policy of French as a common and official language but respectful of the rights of the historical anglophone minority. We must reestablish a balance if we truly want to retain that objective.

Lastly, the fourth point concerns the act's application to federally regulated businesses as it pertains to the predominance of French. I think the fact that businesses are given a choice is somewhat hypocritical. It's as though legislators didn't want to follow their logic to its conclusion. Giving businesses a choice is, in a way, a sham. I think the bill should have gone further.

Those, in short, are the four important points that I wanted to propose to improve the bill.

Mr. Mario Beaulieu: The Official Languages Act is essentially designed to reinforce English in Quebec. For example, we fund the anglophone education system and we fund anglophone pressure groups. Through the court challenges program, we fund challenges to language legislation in Quebec. This principle has been contested throughout the process. The federal government appears to be slightly more attentive.

Here's what the United Nations Human Rights Committee stated in a decision in 1993: "A group may constitute a majority in a province but still be a minority in a State and thus be entitled to the benefits of article 27 [of the covenant]. English speaking citizens of Canada cannot be considered a linguistic minority."

In light of that decision, do you think we should be able to amend this definition in order to acknowledge the minority status of French in Quebec and to act accordingly?

• (1235)

Mr. Patrick Taillon: I don't think international law is the important thing. The important thing is to acknowledge that Quebec anglophones are in a radically different situation from that of francophones outside Quebec. They have rights. The Quebec government has always kept its word, and it will continue to do so by providing services of exceptional quality, including the best universities and the best hospitals.

The federal and provincial governments must cooperate if we truly have the same objectives. Certain rights and privileges of the anglophone minority must be respected, of course, but we also have to stop the decline of French in its majority situation in Quebec. This is an aspect that previously was always overlooked. Ultimately, we didn't have an official languages act; we had a minority languages act. It's an act that, in that respect, previously contributed to the decline of French in Quebec.

We can have a different policy from the moment the act acknowledges the reality that there is value in having a francophone majority, that this majority language in Quebec is declining and that the federal government supports the objective of combating that decline. However, that must be reflected throughout the entire act; it must be reflected throughout the federal-provincial agreements, and it must be reflected in the manner in which the federal government spends money in Quebec, which is often done in a kind of violation of the spirit of the Constitution on the pretext that the federal government has a spending power. That's the idea behind all this. The shift is good, but you have to follow the logic to its conclusion because the objectives converge. If they genuinely converge, then we have to understand the consequences of that.

The Chair: You have less than 10 seconds left, Mr. Beaulieu.

Mr. Mario Beaulieu: I can't say much in 10 seconds so I'll let the next speaker ask her questions.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Beaulieu.

Ms. Ashton, from Manitoba, will ask the next questions.

Ms. Ashton, you have the floor for six minutes.

Ms. Niki Ashton: Thank you, Mr. Chair.

Thanks to the witnesses for being here.

My first question is for Mr. Asselin.

You emphasized the importance of language clauses, using the child care agreement as an example.

I've previously discussed my personal experience here, in Manitoba, with being unable to send our children to day care, not because there was no building, but as a result of a labour shortage. The day care had a lot of trouble bringing in immigrants, even with the assistance we provided them.

We're aware of the waiting lists, the considerable demand in Manitoba and the lack of support, which is a real concern.

Would you please tell us briefly about the situation in Alberta regarding early childhood care services?

Mr. Pierre Asselin: Thank you very much.

This is a population that has increased 50% in the past 20 years. It's remarkable.

We're concerned about the entire spectrum. Early childhood services feed the nucleus of our communities, the schools. The problem in Alberta is that the government has a very strict stance on jurisdictions. It resists agreements requiring economic sharing and contributions. It did so recently for the day care centres, but it was tough.

What I should say is that we lack French-language services. If francophones can't access child care services, particularly in the remote regions, there will be fewer of them in our schools. The federal government can contribute to funding for those services through the official languages in education program, or OLEP. That would be a very good mechanism for doing more in this area. The same is true of child care services. The province has entered into an agreement that applies to all other sectors, such as health and mental health, and that makes it possible to do business directly with the organizations.

In short, as regards Alberta, if you decide to include language clauses and the government doesn't accept them, that will make the situation worse since it already refuses to accept the conditional funding offered to it. You have to bear in mind that you have to do business directly with community actors like us, ACFA. We need these services to continue serving our community and to combat assimilation.

• (1240)

Ms. Niki Ashton: Thank you.

Of course, we're also aware of the difficult situation at Campus Saint-Jean, in Alberta.

In view of what we know about the new Alberta government, how urgent is it for the federal government to invest in community services such as yours?

Mr. Pierre Asselin: It's urgent. Let me give you an example.

We just lost our parliamentary secretary for the francophonie, who took up the position in 2019 and whose mandate was to establish a French-language services policy. Our association prepared an action plan to guide the provincial government in implementing that policy, but there's an urgent need to invest in those services now. Alberta's situation isn't improving.

Ms. Niki Ashton: It's troubling to hear that. As always, you have our support in this. We have to support Campus Saint-Jean and the other francophone campuses outside Quebec, as well as those in the Acadian region, to ensure they can continue their work.

Now I'd like to ask Mr. Taillon a question.

Many witnesses have told us how important it is to adopt a territorial approach to ensure that a linguistic framework protects and supports the vitality of a minority language.

How do you think that approach translates to the bill, and how should we go about following it, particularly for the francophone minority communities?

Mr. Patrick Taillon: It's possible to take a personal or territorial approach. I think the key is mainly to accept that national linguistic communities aren't all in the same boat and that adapted and asymmetrical efforts are required in order to move toward substantive equality.

Ottawa, with its enormous resources, must therefore be encouraged to assist every one of the francophone minority communities outside Quebec, while promoting French and limiting its decline as a majority language, the common and official language in Quebec, which it previously didn't do. It has to adapt to this new situation and can't do that by taking the same actions.

In Quebec's case, its actions must be shaped by the necessity of reconciling this effort with the objective of ensuring the vitality, maintenance and rights of Quebec's anglophone minority. We're in different situations, and sometimes you have to know how to use more territorial or more personal logic to achieve objectives.

Personally, I prefer that we focus on the objectives, that we ensure they permeate the entire act and the interprovincial agreements and that we adapt. Then we'll be using tools that will enable us to achieve the objective.

The Chair: Thank you, Mr. Taillon and Ms. Ashton.

We will now go to the second round of questions. Speakers will have five minutes to ask their initial questions.

Go ahead, Mr. Dalton.

Mr. Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Thanks to the witnesses.

Mr. Taillon, which of the amendments that Quebec has requested do you think are inevitable or essential?

Mr. Patrick Taillon: Thank you for that question.

I've taken a detailed look at the outstanding work that's been done to illustrate very specific amendments in real terms. As you can see, I really agree with these amendments. If I picture myself sitting on a parliamentary committee, I can understand that it has limited time to make a certain number of amendments. However, it has to set priorities. I can agree that there's a somewhat repetitive aspect to certain amendments, but all of them are, in a way, important. The idea is to take the intent expressed in the preamble to the act and ensure it is reflected in the rest of it in every instance where, for example, powers are delegated to the executive branch, particularly the power to make regulations and take certain actions. On that point, if we categorized those amendments, we would see that many of them are designed simply to ensure that the federal government's recognition of the fact that it must cooperate and stop the decline of French in Quebec is reflected in the rest of the act. It also has to be acknowledged that the province in which French is the official and common language, in a manner respectful of anglo-

phones' rights, is a precious value for Canada. So I see one group of amendments concerning that.

I also think another group of amendments is very important. The federal government can indeed enter into administrative agreements with Quebec, but why not include an obligation to enter into such agreements in the act? The legislator must signal that we want to cooperate on these agreements and that we want to do so in such a way that the application of federal language policy in Quebec won't be perfectly symmetrical or identical to what it will be in the rest of Canada.

From my understanding of the enormous amount of work that's been done on the proposed amendments, the simplest thing would be to group them together by objective. I really see two major groups of measures concerning the types of agreements, the fate of language clauses in Quebec, a framework agreement and how the federal power is exercised. In my mind, all that constitutes the co-operation and agreements component.

I think the other component is the recognition of the decline of French—the shift formalized by the act—which the federal government also wants to do in order to contribute to stopping it.

• (1245)

Mr. Marc Dalton: How can we impose language clauses on Quebec?

Mr. Bastarache seems to disagree with Quebec on that point. What do you think?

Mr. Patrick Taillon: Mr. Chair, I'm going to be careful how I interpret Mr. Bastarache's remarks, but my impression is the same as Mr. Dalton's.

The agreement is difficult because there's an old culture associated with the present Official Languages Act. The basis of that culture is a wish not to combine common objectives with those of Quebec language policy. It really boils down to saying that the federal policy is one of support for minorities, period. In that former paradigm, there's a tendency to antagonize the language policies of Quebec and Canada. The contemplated shift is important. In that sense, it may take time for everyone to get used to it. However, I really disagree with the former approach. I think we have to make the new approach clear throughout the act and in the administrative agreements that follow.

Mr. Marc Dalton: Are Quebec's demands compatible with the needs of francophone communities outside Quebec?

Mr. Patrick Taillon: That's the problem with the present act. It creates a dynamic in which Quebec is, in a way, compelled to part ways with minority francophones or, in some instances, to oppose their wishes. If the amended act focuses as consistently as possible on the objectives of substantive equality and asymmetry and the fact that we have common objectives, but that they are achieved in different ways in Quebec, Acadie, Alberta and elsewhere, then we'll be in a better position to combine our efforts.

Bill C-13, especially if amended and improved, offers an opportunity that we previously didn't have, an opportunity to combine all our efforts rather than find ourselves in a dynamic of rivalry. We were previously in a dynamic in which we could cause problems in Quebec by helping communities outside Quebec in certain court cases.

Mr. Marc Dalton: Thank you.

The Chair: Thank you, Mr. Taillon and Mr. Dalton.

Ms. Kayabaga will ask the next questions.

Go ahead, Ms. Kayabaga.

Ms. Arielle Kayabaga (London West, Lib.): Thank you, Mr. Chair.

I want to thank the witnesses once again for being here today, especially those who have previously testified on this bill.

My question is for Mr. Asselin.

You talked about the urgent need to pass this bill. Would you please tell us more about that?

We actually know that the minority language communities are very much affected by the decline of French in Canada. The longer we wait, the more affected they'll be.

What you think about that?

• (1250)

Mr. Pierre Asselin: Thank you for your question, Ms. Kayabaga.

I completely agree with you. At some point, you have to realize that the decline continues while we delay passage of the bill and that the impact of that decline could well be greater than the gains that passage of the bill would secure.

As I said, this subject was addressed with ACFA 2,000 days ago, in 2016. That's enough; it's time to move on. The bill is imperfect, but perfection is the enemy of the good.

Ms. Arielle Kayabaga: How does the principle of substantive equality put forward in Bill C-13 constitute a major change in the way the two official languages are represented in our country??

Mr. Pierre Asselin: I think Mr. Taillon did a good job of explaining that.

This bill is different in that it acknowledges that the decline of French must be stopped. That's a change of approach. We'll have a different approach in the act.

We realized we had two national committees, but the modernized objective is to acknowledge that there's a difference of status. The central objective is to rectify the decline of French across the country.

Ms. Arielle Kayabaga: How do you view this modernization of the Official Languages Act?

What improvements does the bill make to the way French is protected in the linguistic minority communities?

Mr. Pierre Asselin: I think we want to adopt a more restorative act. That way, the government can do what we ask, or what is nec-

essary regarding francophone immigration targets. A restorative approach should enable us to serve minority francophones in provinces such as Alberta whose governments are downright difficult.

We need to take this restorative approach in order to rectify the situation. Nothing has been done for seven years, and we have to catch up.

So this is the approach to the act that we find stimulating.

Ms. Arielle Kayabaga: I'm going back to the fact that the longer we discuss the bill, the more harmful the impact will be.

Bill C-13 is an opportunity for us to review the Official Languages Act every 10 years. You mentioned a few amendments that you would like to see in it.

Can we continue moving forward, or should we halt our progress and respond to all the points raised by all stakeholders?

Are there any ways to make amendments to the act while continuing to implement it?

Mr. Pierre Asselin: I'd opt for the second approach. We can amend the bill when we start implementing it.

We don't have time to wait for the bill to be perfect. We've been studying it for seven years, and we could continue doing so for a very long time. I don't want the next generation to be testifying here in 10 years.

As I said, it's important to acknowledge that the people currently on the ground are being assimilated as we wait to make decisions.

It's good to have a plan for growing and catching up, but we have to assist those in this situation. Telling people who are being assimilated now that others will replace them later on isn't an appropriate answer.

The time to act is now.

Ms. Arielle Kayabaga: I agree with you.

Since I live in a linguistic minority community, I understand your view very clearly.

You think we shouldn't stop. We should keep going to ensure that those communities are served in their language and that the French language survives there.

Mr. Pierre Asselin: Every act is imperfect at some point.

We have to focus on the objective, which is to halt assimilation. Time is of the essence.

Ms. Arielle Kayabaga: Mr. Chair, do I have any time left?

The Chair: You have 15 seconds left.

Ms. Arielle Kayabaga: All right.

Mr. Asselin, if you have anything to add in the 15 seconds I have left, the floor is yours.

Mr. Pierre Asselin: I would just add that the official languages in education program is a mechanism whereby the federal government can support the education continuum in Alberta, particularly as regards Campus Saint-Jean.

Thank you for your questions.

The Chair: Thank you very much.

Mr. Beaulieu, you have the floor for 2 minutes and 30 seconds.

Mr. Mario Beaulieu: Thank you.

I have another question for Mr. Taillon.

You said you agreed with all the Quebec government's amendment requests. Virtually none of them is clearly included in Bill C-13 right now.

Don't you think we should take the time and work toward ensuring that we at least cover the essential aspects of the requests made by the Quebec government, which represents 90% of francophones in Canada?

Mr. Patrick Taillon: Absolutely.

The government has rightly made a significant shift, a mea culpa for recent decades, and it should be commended for doing so. However, I'm afraid that overly confining that message to the preamble offers the judiciary a blank cheque for interpretation. I'm afraid that a mechanism the government can use to do many things, such as make regulations and perform other administrative acts, may result in a confirmed preference for slow change that might meet with resistance elsewhere.

Consequently, it's worthwhile to take the time to formalize matters in the provisions of the act a little more clearly so we're better equipped to bear the consequences. It's like looking for a backdoor exit. I understand that the government needs flexibility and that the courts require room to manoeuvre, but it's also the legislator's role to have the clearest and most unambiguous will possible.

But let's not delude ourselves here. The ability of public authorities, the government and the legislator to slow the decline of French, which is statistically strong, is quite limited. If it's also paired with a weak will, the chances of doing so will be even worse.

• (1255)

Mr. Mario Beaulieu: Ultimately, it's critical that French be made the common language in order to integrate immigrants. We need to francize at least 90% of allophones to ensure we maintain our demographic weight.

That will be all. Thank you.

The Chair: Thank you for that conclusion, Mr. Beaulieu.

The last speaker, but not the least, is Ms. Ashton, for two and a half minutes.

The floor is yours.

Ms. Niki Ashton: Thank you very much.

Mr. Asselin, what impact can the federal government's systematic refusal to admit francophone students to Canada have, and what

are the consequences of that for the future of post-secondary educational institutions such as Campus Saint-Jean? Do you know what impact the refusal of francophone Africans in particular is having on those institutions?

Mr. Pierre Asselin: Thank you for your question, Ms. Ashton.

We're concerned about it. We're extremely disappointed that it's happening. We have a labour shortage. The life and future of our community depend on immigration. It's important to maintain services for people who are here in order to stop assimilation. We've wasted 20 years as a result of the lack of restorative targets and approaches. That's what we're suffering from right now. We urgently need to adopt a restorative approach because this is completely unacceptable.

The community in Alberta has changed a lot over the past 20 years. Many francophones from Africa have truly enriched our community. They bring a diversity that everyone in the province appreciates. It's a major gap and a serious cause for concern in the province. We're really very disappointed with the present situation.

Ms. Niki Ashton: Thank you for sharing that with us.

It's really a message that we've heard across the country and a considerable concern to us. With Bill C-13 and the substantive amendments, we have a chance to start correcting that.

I have little time left.

Mr. Asselin and Mr. Taillon, in 30 seconds, what would be your final message to the committee?

Mr. Pierre Asselin: In order to leave some time for Mr. Taillon, I would very briefly say that it's time to act.

We're asking MPs to act, to pass a bill. It's imperfect, like everything in life. We will keep on working. We will improve it. The decline has to be stopped right now.

Mr. Patrick Taillon: This is an important issue that deserves Parliament's attention. Parliament must impose obligations on the government. There are limits to overly vague delegations. You must take the time to amend the bill.

The Chair: Thank you, Mr. Taillon.

Thanks to the witnesses for being available to appear before our committee and to provide answers to our many questions.

If you feel you didn't have time to answer adequately because the chair was rushing you, and if you believe you can provide us with additional information that would be of use to us, please send it in writing to the clerk as soon as possible. She will then forward it to each of the members of the committee.

With that, I want to thank Mr. Asselin, Ms. Laurin and Mr. Taillon, who is getting ready to catch a flight.

Thank you for sharing your time with us. It was extremely important for us to hear what you had to say.

[Proceedings continue in camera]

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