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Chair

The Honourable Denis Paradis

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•(1205)

[Translation]

The Chair (Hon. Denis Paradis (Brome—Missisquoi, Lib.)):
The meeting is now public.

Pursuant to Standing Order 108(3), we are proceeding with our study on full implementation of the Official Languages Act in the Canadian justice system.

I would like to welcome to the Standing Committee on Official Languages our two witnesses from the Barreau du Québec: Claudia Prémont, head of the Barreau, and Sylvie Champagne, secretary of the order.

As a member of the Barreau, I am very proud to have you both here.

You will have 10 or so minutes to present the Barreau's position on the topic of study. After that, we will move into the question and answer portion.

Ms. Prémont, you may go ahead.

Ms. Claudia P. Prémont (Bâtonnière du Québec, Barreau du Québec): Mr. Chair and former president of the Barreau, vice-chairs, and ladies and gentlemen of the committee, good morning. It's a tremendous pleasure to be here to discuss this extremely important topic.

I would like to begin by thanking the committee for inviting the Barreau du Québec to be here and share its views on official languages in the judicial and legislative arena.

My name is Claudia Prémont, and I am the president of the Barreau du Québec. With me today is Sylvie Champagne, the secretary of the order and director of the Barreau's legal department.

The Barreau du Québec is the professional order representing some 26,000 lawyers in Quebec. It has a mandate, enshrined in law, to protect the public. That mandate includes protecting the public in their dealings with lawyers. To that end, the Barreau has a range of measures at its disposal. They include responsibility for admission to the profession, peer review and disciplinary oversight of members, and management of prosecutions against non-members for practising the profession illegally.

In a broader sense, the Barreau's mandate to protect the public also includes a significant social component that extends to all users of the justice system. The Barreau protects the public by safeguarding the rule of law and taking public positions on a range of legal issues, particularly the rights of vulnerable people and minority groups. It is

with that background that the Barreau is pleased to participate in the committee's consultations today.

The Barreau is especially concerned by respect for language rights within the justice system. It is our view that the issue gives rise to three major areas of concern for Quebec. I will use the few minutes I have to summarize them for you, with the knowledge that you have seen our short brief.

•(1210)

The first concerns the bilingual proficiency of Supreme Court of Canada justices and federally appointed judges. The second pertains to Quebec's constitutional obligation to draft its legislation in English and French. The third involves the translation of its court decisions.

First, with respect to the bilingual proficiency of Supreme Court of Canada justices and federally appointed judges, the Barreau du Québec is satisfied with the new process announced by the Prime Minister for appointing Supreme Court justices and the bilingual requirement it sets out. It addresses many of the things we have been calling for over the past few years. The ability to be understood by a judge in English or in French is a fundamental right that guarantees the equal status of the country's two official languages. As far as the appearance of justice is concerned, it is extremely important for justice system users that the judge not need the help of interpreters.

I should point out that the Barreau du Québec spoke out on the issue in 2011, 2014, and 2016. The new process seeks judges who are functionally bilingual. In our view, that includes the ability to not only read and understand the language of the parties before the court, but also to ask questions in that language. We see it as crucial that judges have this level of bilingual proficiency so that they can converse and ask questions in the language.

Although we are very pleased with this change, we recommend that the Supreme Court Act be amended so that future governments are also bound to respect this requirement.

As you know, some jurists argue that, because the change will alter the makeup of the Supreme Court, a constitutional amendment is necessary. That would require the approval of seven provinces accounting for at least 50% of the population of Canada as a whole, as interpreted by the Supreme Court in the reference regarding Justice Nadon. This constitutional consideration merits special attention.

The Barreau defers to the expertise of Professor Sébastien Grammond, from the University of Ottawa's Civil Law Section. According to Mr. Grammond, Parliament has the necessary authority to enact legislation making bilingualism a condition for the appointment of Supreme Court justices, without the need for a constitutional amendment.

As for other federally appointed justices, it is our view that bilingual proficiency is most certainly an asset, even a prerequisite, depending on the region where the judge will serve. Bilingual proficiency should not, however, be a prerequisite for judges in all regions. The reality of a judge in Saguenay is completely different from that of a judge in Montreal.

Now I will turn to the obligation to draft legislation in both official languages.

As you are aware, section 133 of the Constitution Act, 1867, requires Quebec's National Assembly to pass legislation in both official languages. Nonetheless, over the years, members of the legislative assembly have adopted the practice of voting for legislation drafted solely in French. Therefore, amendments passed by parliamentary committees are routinely not immediately available in English.

Bills are initially drafted by lawyers or notaries who are legislative drafters and then translated by translators who do not necessarily have legal training. As you can imagine, that causes problems. In some cases, the errors are grammatical, but in other cases, the discrepancies between the two versions may even lead to a completely different interpretation of the law. Users of the justice system must then turn to the courts for a ruling on the interpretation of the law. As we all know, the courts are overburdened right now, so that is not the best option. Every effort must therefore be made to rectify the problem as quickly as possible.

●(1215)

In particular, the Bar of Montreal highlighted numerous errors in the new Code of Civil Procedure of Québec. It is actually not that new anymore, having come into force in Quebec more than a year ago. A tremendous amount of work is under way to fix the differences between the French and English versions as quickly as possible.

It took more than 18 years to produce equally sound versions of the civil code in both English and French. Unfortunately, that's a reality we have no choice but to accept.

What can the federal government do to help? It can provide financial support to help efforts to ensure a more effective translation process going forward, especially as regards vital pieces of legislation such as the Code of Civil Procedure. We would very much like to see joint drafting used, although not necessarily for every bill. That would not be possible in light of the resources available. Nevertheless, efforts should certainly be focused on improving the process. We are currently working with the ministry of justice to that end. The financial support I spoke of, however, would obviously lead to results more quickly.

I will now discuss the translation of decisions.

We drew the attention of the Standing Committee on Official Languages to the problem on November 22. Vice-President of the Barreau du Québec Antoine Aylwin and Casper Bloom, the director of the Association of English-Speaking Jurists of Quebec, discussed the matter with the committee. The problem regarding the translation of decisions is this. Section 9 of the Charter of the French Language gives any party to a judgment the right to have that judgment translated into French or English at no cost, no matter which official language it was rendered in. Clearly, the court has the discretion to choose the language of the judgment. A party may then request that the judgment in their own case be translated. The vast majority of Quebec judgments are rendered in French. Some parties do request the translation of their judgment, although not in most cases. That means that the lion's share of our jurisprudence is in French and therefore has much less of an impact than it could were it translated. Courts in other provinces cannot understand it, so it is simply not consulted.

One of the issues we reiterate in our brief is the fact that the Société québécoise d'information juridique, or SOQUIJ, the ministry of justice, and Quebec's various courts—the Court of Appeal in 2003 and the Superior Court and Court of Quebec in 2005—came to an agreement to translate into English 1,350 pages of jurisprudence of Canada-wide interest. That is equivalent to 450 pages per court. Obviously, numerous statutes apply equally throughout the country, regardless of Quebec's civil tradition. Thanks to funding from the Department of Justice, between 2010 and 2012, SOQUIJ was able to translate 1,350 additional pages of Court of Appeal judgments. These were judgments chosen by the court for their national appeal.

●(1220)

It is important to understand that the lack of translation of judgments has a major impact on the visibility and influence of decisions rendered by Quebec courts.

I will give you some statistics. For example, the number of judges serving on the Court of Appeal of Quebec is similar to the number of judges serving on the Court of Appeal for Ontario. It should be noted that Ontario has the Divisional Court. Nonetheless, in 2015, the Court of Appeal of Quebec rendered nearly two and a half times as many judgments as the Court of Appeal for Ontario. In that same year, Court of Appeal for Ontario cases were cited more than 1,500 times by Canadian jurisprudence, while Court of Appeal of Quebec cases were cited only about 300 times. That is directly related to the fact that, currently, the lack of translation of judgments rendered by Quebec courts unfortunately prevents us from really having an influence, as I was saying at the outset.

To improve access to the Canadian justice system and increase federal courts' ability to render decisions that are available in French and in English, Budget 2017 proposes to allocate \$2 million over two years, starting in 2017-18, to the court administration services. I want to specify that this pertains to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court of Canada and the Tax Court of Canada. Once again, the Superior Court of Quebec and the Court of Appeal of Quebec are unfortunately not covered by those measures.

In that respect, we are asking the Department of Justice Canada to collaborate with various Quebec stakeholders, including the Quebec justice department, courts and the SOQUIJ, and to provide financial assistance to develop a strategy that will help encourage the translation of judgments. I think that we all have an interest in that being done. Quebec has an interest in its jurisprudence being known, but it is also extremely positive for the rest of Canada to have access to the cases of Quebec courts.

Thank you.

The Chair: Thank you very much, Ms. Prémont.

We will begin right away with Mrs. Boucher.

Mrs. Boucher, I believe that you have some brief comments.

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): Yes, Mr. Chair, I have two quick questions.

I want to thank the witnesses for being here.

I am from Quebec, and I am appalled that it has taken 18 years for us to have an adequate translation of the Civil Code.

As a province, does Quebec also have the power to require that a response to a particular file be provided in both official languages? That is the first thing I would like to know.

Moreover, you mentioned that a professor had said that bilingualism was constitutional and that the Constitution would not have to be amended for that. However, different things are being said elsewhere. I would like to hear your opinion on that; it is very important. Differing opinions within government are normal. I am in favour of Supreme Court judges being bilingual, but people would have to agree on the constitutionality of that obligation.

Could you please comment on that?

Ms. Claudia P. Prémont: I will answer the first question and let Ms. Champagne answer the second one.

As I understand your first question, you are wondering what the Government of Quebec is doing about translating statutes.

Mrs. Sylvie Boucher: Yes.

• (1225)

Ms. Claudia P. Prémont: The Government of Quebec has had some pretty vigorous debates with the Barreau de Montréal. We may join the parade if, by some misfortune, we do not manage to agree, but we seem to be on the right track for the time being.

The Barreau de Montréal has clearly said that it would attack the process by arguing that it is unconstitutional. Discussions were held and, in late 2015, the Department of Justice made commitments. As those commitments have not been completely fulfilled, discussions have been renewed.

Recently, a committee made up of representatives of the Barreau du Québec, Barreau de Montréal and the Department of Justice met to discuss improving the process. We know very well that the constitutionality of a process will not be decided in a committee. However, we asked ourselves what practical and concrete solutions we could adopt in the short term to improve the process and

potentially avoid this debate on the constitutionality of the process as we know it in Quebec.

So commitments have been made, including the commitment to hire anglophone civil lawyers to translate statutes. We are not talking about professional translators, but about anglophone civil lawyers. That could improve the outcome. That idea has been put forward. It has not been fully addressed, as it has to go through the Treasury Board, as well, but the Department of Justice has made a certain commitment.

A commitment was also made to hire jurilinguists on an ad hoc basis, in cases of important pieces of legislation. However, co-drafting is currently not planned owing to the province's resources.

The Chair: Ms. Champagne, perhaps you could complete the answer.

Ms. Sylvie Champagne (Secretary of the Order and Director of the Legal Department, Barreau du Québec): Yes, I will provide some answers to the second question.

There are several schools of thought on the bilingualism issue—on whether Parliament can amend the Constitution Act or whether a constitutional amendment is required. The reference regarding the Supreme Court Act did not make it possible to make a clear decision in that case.

This is a fundamental question for accessibility to justice. In fact, the Supreme Court is the court of last resort for all Canadians, including those who speak French. If it is really impossible to decide the dispute between the two schools of thought, it would be important to bring this issue before the Supreme Court of Canada, so that it can set the record straight on the matter. In other words, it should determine whether bilingualism is part of what we call the other essential characteristics that are protected by the Constitution.

Once we obtain that answer, we could either amend the Supreme Court Act to include that obligation or begin discussions, once again, to amend the Constitution Act.

For the Barreau du Québec, it is essential for Supreme Court justices to be bilingual to ensure the public's trust and protection.

The Chair: Mr. Généreux, you have time for a single question.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): I knew that I would lose out. That's okay, as you have partially answered my question.

I understand that the Barreau has adopted Mr. Grammond's position, which supports the idea that judges should be bilingual. It is important to recognize that Mr. Grammond is not necessarily infallible. You have made a decision, which I assume is very informed.

I have an issue with functional bilingualism. Unfortunately, I missed the meeting where the committee heard from people who provide training. I was unfortunately unable to listen to them. However, I make a very clear distinction between someone who is perfectly bilingual and someone who meets the functional bilingualism requirement. Unless I am mistaken, you determine if someone is bilingual on a functional basis. Once again, the interpretation of what being functional in French or in English means can vary widely.

What is your position on that issue, which is very specific to functional bilingualism?

Ms. Claudia P. Prémont: I can answer that question.

In reality, the important thing is not to know what the Barreau's position is on functional bilingualism, but to determine how we will define it. We believe that judges must be bilingual. A bilingual judge is able to read, write and converse in English and in French. They must be able to communicate.

• (1230)

Mr. Bernard Généreux: According to what I remember, Mr. Grammond said that it was not really important for the judge to be able to speak English or French, but I am not sure if I understood correctly. I feel that the position he expressed was problematic.

Ms. Claudia P. Prémont: We have clearly expressed that position. We have sent it in writing to the Federal Minister of Justice.

The Chair: Thank you.

Ms. Lapointe, go ahead.

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you, Mr. Chair. The other side was using up a lot of time.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Mr. Généreux always stretches the limits.

Ms. Linda Lapointe: I would like to continue talking about bilingual judges.

You said that Supreme Court justices should be able to speak, write and converse in both languages. Do you think it would be acceptable for them to only be able to read and understand?

Ms. Claudia P. Prémont: When it comes to the Supreme Court, the Barreau's position is that it would not be acceptable. We see that in hearings. Some judges are able to read French and English, but when it's time for the judge to put questions to a francophone litigant, anglophone judges unfortunately say a lot less than francophone judges. That seems extremely important to us.

Perhaps Ms. Champagne would like to add something.

Ms. Linda Lapointe: I would actually like to ask you how you would assess a judge's level of bilingualism.

Ms. Sylvie Champagne: That is the experts' job. After all, there are hearings for judges' presentation.

Ms. Linda Lapointe: So people would not define themselves as bilingual. It would have to be verified.

Ms. Claudia P. Prémont: Exactly.

Ms. Sylvie Champagne: We feel that it would in fact have to be verified.

Ms. Linda Lapointe: Okay.

Ms. Claudia P. Prémont: That was done in Judge Rowe's case.

Ms. Linda Lapointe: Okay. I just wanted to make sure I have details.

Ms. Sylvie Champagne: As Ms. Prémont was saying, when we are at the Supreme Court, it is obvious which judges can communicate with litigants. As you know, when we plead before the Supreme Court, time is measured. We don't have a lot of time, so

we have to be very specific. We have to have a chance to answer the judge's questions, as there are no other legislative bodies beyond the Supreme Court. Every litigant wants to have their opportunity to convince the court. If the judge has no questions to put to the litigant because they are uncomfortable speaking the litigant's language, their questions will remain in their head. Sometimes, the judge and the litigant can communicate. Sometimes, the judge also wants to listen to the litigant to understand and grasp the entire argument put before them. If the judge is thinking about how to translate their questions into the litigant's language, they may miss part of what has been said. Of course, there are always briefs, but the judge's questions sometimes allow the litigant to add details that are not in the brief.

It is important for all judges to be able to speak both languages.

Ms. Linda Lapointe: Okay, thank you.

Let's come back to the case of Quebec and its anglophone communities. I know that Montreal is not the only place with anglophone communities; they are spread out across the province.

What do you think those communities need to be properly heard by judges?

Ms. Claudia P. Prémont: It primarily depends on the region.

Ms. Linda Lapointe: I am from the Lower Laurentians region, which includes Deux-Montagnes, Saint-Eustache, Boisbriand, Rosemère. The region is covered by the Saint-Jérôme court.

Ms. Claudia P. Prémont: Okay.

Mr. Aylwin actually answered a question on that issue in this committee. He was not in a position to know whether there were enough anglophone judges in that region. Of course, chief justices can still ensure, when necessary, that a judge has a solid understanding of English before assigning them to hearings in the region in question. He gave an example where an anglophone judge was available to hear a settlement conference.

I come from Quebec City. It may be less frequent for us to need an anglophone judge or a perfectly bilingual judge because anglophone and francophone witnesses are involved. However, when necessary, at any time and without any issues, judges are able to listen to us.

That may be more difficult in certain regions. I don't think this is a problem in Montreal. I think that all the judges are perfectly bilingual and are capable of hearing a case in French and in English or entirely in English without any issues. In Saint-Jérôme, there may indeed be some difficulties in certain cases, but I could not speak to that personally.

• (1235)

Ms. Linda Lapointe: Thank you.

I will change the subject.

Earlier, you talked about judgments that would be of interest to the rest of Canada. We have already been told that a small proportion of Quebec judgements were translated and that they were used much less as a result.

How many judgments would you say could be of interest elsewhere in Canada if they were translated, but are currently underused?

Ms. Claudia P. Prémont: Can we answer that question?

Ms. Sylvie Champagne: The chief justices of all the courts should be consulted. They could tell you how many judgments a year are underused.

Ms. Linda Lapointe: I understand not translating all the judgments. Some of them may actually be similar.

You were saying earlier that 1,350 pages were translated every year. Some funding has been provided, right?

Ms. Claudia P. Prémont: Yes.

Ms. Sylvie Champagne: Let's take the Court of Appeal as an example. In years when funding was provided....

Ms. Claudia P. Prémont: It was double the number.

Ms. Sylvie Champagne: On average, 25 judgments were translated regularly at the Court of Appeal of Quebec. In years when funding was provided, many more were translated.

Ms. Claudia P. Prémont: The number of translated judgments doubled.

Ms. Linda Lapointe: Was is sufficient to double that number or should it have been taken further?

Ms. Claudia P. Prémont: I don't think it is enough.

Ms. Linda Lapointe: Even doubling the number?

Ms. Claudia P. Prémont: I think that more judgments should be translated. However, we cannot tell you today how many additional judgments should be translated.

Ms. Linda Lapointe: I understand that it varies depending on the judgment. For example, it would have been nice for the judgment in *Éric v. Lola* to be translated, as it affects family law.

Ms. Claudia P. Prémont: Indeed.

Considering the number of judgments rendered, it is certain that the proportion of judgments that should be translated is fairly significant, and I don't think that the number of judgments currently being translated is close to it.

Ms. Linda Lapointe: No. It's not a matter of numbers, but a matter of value.

Ms. Claudia P. Prémont: Yes. I understand.

Ms. Linda Lapointe: Thank you.

The Chair: We'll take a break for a few minutes. There seems to be microphone issues.

•(1235) _____ (Pause) _____

•(1245)

The Chair: The meeting is resumed.

I want to let the committee members know they each have four minutes to ask questions.

We'll start with Mr. Choquette.

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

Ms. Prémont and Ms. Champagne, I want to know whether you were consulted regarding the budget that just came out. The budget

includes two million dollars over two years to improve the English and French capacity of federal courts.

Were people from Quebec, in particular the members of the bar, consulted?

Ms. Claudia P. Prémont: No.

Mr. François Choquette: Two million dollars is being provided over two years. However, unless I'm mistaken, the Québec Superior Court and Québec Court of Appeal won't receive anything from the federal government to translate landmark decisions.

Ms. Claudia P. Prémont: This is indeed true for Superior Court and Court of Appeal decisions.

Mr. François Choquette: In other words, the budget doesn't provide anything to improve the translation of our francophone jurisprudence in Quebec.

Ms. Claudia P. Prémont: Indeed.

In fact, some federal courts do sit in Quebec, but we need to see how much Quebec will benefit from the funding.

That said, the funding doesn't target anything related to the Court of Appeal and the Superior Court.

Mr. François Choquette: The SOQUIJ last received funding from about 2010 to 2012. It was a one-time payment. The SOQUIJ hasn't received anything since then.

Mrs. Sylvie Champagne: It was in 2013-14, and the amount was \$50,000.

Ms. Claudia P. Prémont: I think the amount was \$200,000 for the first two years, then it went down to \$70,000, and then \$50,000.

Mr. François Choquette: Was it beneficial for the translation of Quebec jurisprudence and decisions?

Ms. Claudia P. Prémont: You can read in our brief that the \$200,000 grant helped us double the translation capacity.

Isn't that true, Ms. Champagne?

Mr. François Choquette: So, part of the 2 million dollars should be allocated to the SOQUIJ. That may be one of your recommendations.

Ms. Claudia P. Prémont: Yes. That's what we recommend.

Mr. François Choquette: We spoke earlier about the Supreme Court, but I want to talk a bit about the superior courts.

There has been a small policy change regarding superior courts. I don't know whether you're aware of the recent change in the bilingual capacity of superior courts.

Ms. Claudia P. Prémont: Are we talking about functional bilingualism?

Mr. François Choquette: It concerns bilingualism and the assessment of judges. It relates to the 2013 report of the official languages commissioners of Ontario, Canada and New Brunswick regarding access to justice in superior courts. The report noted that it wasn't right that judges could call themselves bilingual without undergoing an assessment. The judges self-assess their language skills. In some cases, they underestimate themselves, and in other cases, they overestimate themselves. This causes problems with access to justice in both official languages. According to a new policy adopted recently, an assessment can be conducted when necessary.

If you're aware of this new policy, I want to know what you think about it.

•(1250)

Ms. Claudia P. Prémont: As far as I know, we haven't commented specifically on this change.

As we said here, we think bilingualism is necessary for superior courts in certain regions. For some other regions, bilingualism can always be an asset, obviously. A number of Superior Court judges are perfectly bilingual, but in some regions of Quebec, the judge doesn't need to be bilingual.

The Chair: Thank you.

We'll now move on to the next speaker.

Mr. Arseneault, you have the floor.

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

First, I want to thank Ms. Champagne and Ms. Prémont for being here.

The Barreau du Québec considers that Québec has, at the very least, the constitutional obligation to translate its bills before voting on them.

Ms. Claudia P. Prémont: Yes.

Mr. René Arseneault: However, unless I'm mistaken, this procedure isn't followed.

Ms. Claudia P. Prémont: Obviously, a court didn't make this decision. The Quebec government says its process fulfills its constitutional obligations. However, at this time, the Bar of Montreal says otherwise.

Mr. René Arseneault: Do the various regional bars agree on the matter?

Ms. Claudia P. Prémont: I believe the other regional bars support the Bar of Montreal's position, but feel less affected by the issue. As I told you, currently an agreement in principle exists, so proceedings won't be initiated in the short term. However, if proceedings were initiated, the Barreau du Québec would be a joint applicant.

Mr. René Arseneault: It will be interesting to see how this ends.

I want to talk about the legal terminology.

I'm from a common law country, or province rather—

Voices: Oh, oh!

Mr. René Arseneault: Let's say that I'm from a part of the country where common law is practiced in French. I'm proud of having

attended the first university on earth where common law was taught in French. It was a major challenge to create the new terminology, eliminate the anglicisms and establish our own vocabulary.

I imagine that, in Quebec, you experienced exactly the same situation when translating the Civil Code into English. How is this work done? For example, do you have key organizations that are similar to the Centre de traduction et de terminologie juridiques in Moncton, New Brunswick?

Ms. Claudia P. Prémont: No.

Mr. René Arseneault: They don't exist. So you don't have an elite group of translators to do this work.

Ms. Claudia P. Prémont: No. We would very much like to draw them to Quebec, but I think it's harder for us.

Mr. René Arseneault: Sub-contracts should be awarded to New Brunswick.

Voices: Oh, oh!

Mr. René Arseneault: Seriously, it's a challenge. There's a shortage of jurisprudence translation.

I know the funding isn't available. By the way, I want to know whether there's currently a provincial contribution or initiative to fund the translation of Quebec jurisprudence. Does the Quebec government fund the translation or does it rely only on federal money?

Ms. Claudia P. Prémont: The SOQUIJ is subsidized, paid for and funded by the Quebec government.

Mrs. Sylvie Champagne: It's a Crown corporation.

Mr. René Arseneault: Okay.

Ms. Claudia P. Prémont: There already is one. However, since the resources are insufficient, not enough decisions are translated.

Mr. René Arseneault: Do you know how the process works in the other provinces that translate their jurisprudence and legislation, such as Manitoba, Ontario and New Brunswick? Pardon my ignorance, but I want to know how this is funded.

Ms. Claudia P. Prémont: Honestly, we don't have this information. I asked Ms. Champagne, when we were waiting earlier, whether we had this information. Unfortunately, we don't have it. I don't know whether the committee has obtained it, but I can't answer your question.

•(1255)

Mr. René Arseneault: It's true that the untranslated decisions are missing from Canadian jurisprudence. When I was practicing, I was one of the rare lawyers in Canada who skimmed through Quebec jurisprudence to obtain decisions in French. I did the opposite of what Canadian lawyers generally did.

In short, even if the different levels of government had a burst of generosity and expressed the desire to fund the translation of all the Quebec jurisprudence, the fact remains that no centre specializes in the legal terminology generated by the Civil Code. Is that correct?

Ms. Claudia P. Prémont: There's no specialized centre.

At this time, the SOQUIJ does have lawyers who, in my view, do excellent legal translation work. However, we don't have a centre like the one in Moncton. We don't have that.

Mr. René Arseneault: Okay.

The Chair: Thank you, Mr. Arseneault.

We'll continue with Paul Lefebvre.

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

Ms. Prémont and Ms. Champagne, welcome to my province of Ontario.

I'm also a lawyer in Ontario. I simply want to understand. In Quebec, bills are adopted in French, then translated. Is that how the process works? Texts are translated afterward, and they may contain errors.

Ms. Claudia P. Prémont: No. In fact, we don't really agree on how the process works exactly.

Mr. Paul Lefebvre: I want to understand better. It's important.

Mrs. Sylvie Champagne: The bills are available in both languages. The parliamentary commissions study them, and the commissions often make amendments. The amendments aren't always available in both languages. However, when the bill is passed, the version in both languages is passed.

Mr. Paul Lefebvre: I understand.

You also mentioned that errors sometimes occur. In the past, errors were made in the translation of legislation, and these errors took years to correct. Has this caused problems? When legislation is first written in French then translated into English, the English version may contain errors. Do you think this has caused problems in certain cases where people relied on the English interpretation of the legislation?

Mrs. Sylvie Champagne: Certainly, when lawyers prepare their cases, in both Quebec and Ontario, they read the two versions of the legislation. They can make arguments based on the fact that a section doesn't have the same meaning in English and French. At that point, the issue must be brought before the court to determine the actual intention of the legislator. Obviously, the fact that the two versions don't have the same meaning causes issues.

Mr. Paul Lefebvre: This boils down to your lawyer colleagues' ability to translate. In response to my colleague's question, you said there was no school or environment that supported this type of work. Where are your lawyer colleagues, the ones who do translation, trained?

In the federal government, it's a specialty. Some lawyers do only translation. Some translate from English to French, and others

specialize in translating from French to English to ensure consistency. This capacity also exists in Ontario. What about in Quebec?

Ms. Claudia P. Prémont: The Quebec government tells us that it's extremely difficult to find jurilinguists because the real jurilinguists work on the Ontario side, in Ottawa. They aren't necessarily interested in working in Quebec. It's a very real difficulty that must be dealt with.

In this context, the people who are currently translating legislation don't necessarily have jurilinguist training. They're translators, but not necessarily lawyers, or they're perfectly bilingual lawyers, but not necessarily translators.

I referred to an agreement earlier. The Bar of Montreal is even ready to consider that a perfectly bilingual civil lawyer would be able to do a good job. We're not talking about someone who has translation training, but about an anglophone civil lawyer.

Mr. Paul Lefebvre: The federal government and other provinces, especially New Brunswick and Ontario, have created this capacity and expertise. However, in Quebec, work still needs to be done. You said that, in Quebec, some lawyers still do translation even though they don't have any translation training, and that some translators do a bit of legal translation even though they don't have any legal training.

Ms. Claudia P. Prémont: From what I understand, it's very difficult to recruit people who have this training.

• (1300)

The Chair: Thank you, Mr. Lefebvre.

This concludes today's meeting.

Ms. Prémont and Ms. Champagne, thank you for your contribution to the committee.

Ms. Claudia P. Prémont: Thank you.

Ms. Sylvie Champagne: Thank you.

The Chair: I want to remind the committee members that we'll be starting Thursday's meeting by looking at Mr. Choquette's motions. We'll then continue the consideration of the draft report we started this morning.

Thank you, everyone.

The meeting is adjourned. We'll see each other on Thursday.

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