



House of Commons
CANADA

Standing Committee on Transport

TRAN • NUMBER 042 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Tuesday, November 22, 2005

—
Chair

The Honourable Roger Gallaway

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• (0900)

[English]

The Vice-Chair (Mr. Jim Gouk (British Columbia Southern Interior, CPC)): I call the meeting to order. We'll get started.

Ms. Burr, I don't know who's going to take the lead here. I'll let you or whoever is starting off introduce yourselves and give us your opening remarks.

Ms. Kristine Burr (Assistant Deputy Minister, Policy Group, Department of Transport): Good morning, Mr. Chair. Thank you.

I'd like to introduce Mr. Jacques Pigeon, our general counsel at Transport Canada; and Madame Nada Vransy, our director of domestic and international air services.

I'm Kristine Burr. I'm assistant deputy minister, policy, for Transport Canada.

[Translation]

We are pleased to have this opportunity to discuss Bill C-47, An Act to amend the Air Canada Public Participation Act.

These proposed amendments will fulfil the government's commitment to Canadians that there would be no erosion in the application of the Air Canada Public Participation Act, or ACPPA, as a result of Air Canada's corporate restructuring.

[English]

Air Canada, as a federal crown corporation, had been subject to the Official Languages Act since that act was established in 1969. Official-language-of-work and service-to-the-public obligations were firmly entrenched within Air Canada's organizational culture. When Air Canada was privatized in 1988-89, it was understood that continued commitment to full Official Languages Act obligations was a condition of the privatization under the Air Canada Public Participation Act, which we commonly call ACPPA.

Today, following the corporate restructuring, Air Canada has become a wholly owned subsidiary of the new parent holding company, ACE Aviation Holdings Incorporated, or ACE. As well, several of Air Canada's former internal divisions and subsidiaries have been spun off into limited partnerships. These limited partnerships are now owned by and under the direct and indirect control of ACE.

[Translation]

The obligations imposed in the ACPPA still apply, but to a reduced Air Canada, both in terms of the size of the operation and in the number of employees. Under the ACPPA, Air Canada is subject

to full Official Languages Act obligations, including provisions governing service to the public, language of work, equitable workforce participation and enforcement policies and mechanisms.

Air Canada is also required to ensure that any future Air Canada subsidiaries providing air services, provide service to the public in both official languages. Finally, the ACPPA requires Air Canada to maintain operational and overhaul centres in Winnipeg, Montreal and Mississauga, and to maintain the head office of the corporation in greater Montreal.

[English]

The Government of Canada has committed to Canadians to maintain the status quo under the ACPPA—no more, no less. No more refers to provisions in the proposed bill that limit the application of ACPPA obligations to prevent extending them beyond the intent of the current legislation. This includes provisions that prevent extending official-language obligations to an entity once it is no longer controlled by ACE.

As well, to maintain consistency with the current requirement on Air Canada, official-language obligations imposed upon affiliates of Air Canada providing air services, such as Jazz Air Limited Partnership, are limited to service to the public and related Official Languages Act enforcement provisions. Lastly, should an Air Canada air service affiliate that operates exclusively outside Canada be created or acquired, official-language obligations would not apply to that affiliate.

• (0905)

[Translation]

“No less” refers to provisions that update the current ACPPA obligations to ensure they continue to apply to Air Canada's new corporate structure. This includes provisions that continue full official language obligations on Air Canada's former internal divisions that have been spun off as separate entities. Here, I am referring to, amongst others, Technical Services, Air Canada Cargo and Ground Services.

In addition, this bill would deem within the articles of incorporation of ACE, as the new head body of the corporation, requirements to communicate with the public in both official languages and to maintain its head office in the greater Montreal area.

[English]

I noted with interest the comments made by all parties during the second-reading debate of Bill C-47. If you will permit me, I would like to take a moment or two to respond to two points raised in that debate.

First, there was discussion as to whether Bill C-47 could be strengthened ever further to ensure that Air Canada complied with its obligations under the Official Languages Act. In fact, this bill will place legal responsibility to answer for their official language obligations directly on the spun-off affiliates of Air Canada. In direct response to the recommendation of the Commissioner of Official Languages, provisions will allow the commissioner to continue to monitor and enforce Air Canada's compliance with the Official Languages Act obligations. This includes direct oversight over Air Canada's former internal divisions, as well as the service-to-the-public obligations of Air Canada affiliates that provide air services.

While this bill extends parts VIII, IX, and X—the enforcement mechanisms and policies under the Official Languages Act—to Air Canada's former internal divisions and subsidiaries, the issue of whether and how to apply these enforcement mechanisms rests within the purview of the Office of the Commissioner of Official Languages.

The second point arising from the second-reading debate that I would like to address briefly is the issue of extending official-language obligations to all Canadian airlines. Unlike other Canadian air carriers, Air Canada is a former crown corporation. As such, Air Canada has been subject to official-language obligations since 1969. This obligation was extended upon its privatization in 1988, and the capacity to follow through on these obligations should be in place.

Imposing official-language obligations on other private sector air carriers would go further than the government's commitment to retain the scope of application of the ACPPA. In addition, the government has never imposed Official Languages Act obligations on a private sector corporation unless it was a former federal institution. It would also be difficult to rationalize why air carriers, among all private sector modes of Canadian transportation and among all federally regulated private sector businesses, should be made subject to Official Languages Act obligations.

As a final comment, I would add that every effort has been made to ensure that this bill strikes an appropriate balance between preserving the official-language obligations imposed upon Air Canada from its days as a former federal crown corporation and recognizing that Air Canada operates in a highly competitive private sector environment.

That concludes my opening remarks, Mr. Chair. We would be pleased to answer any questions from committee members.

Thank you.

The Vice-Chair (Mr. Jim Gouk): Thank you, Ms. Burr.

Madame St-Hilaire.

[Translation]

Ms. Caroline St-Hilaire (Longueuil—Pierre-Boucher, BQ): Thank you, Mr. Chairman.

Good morning, and welcome to the committee.

I would like to know how this bill will guarantee that Air Canada's head office remains in Montreal, and not just as an empty shell. This is a matter that is important both in terms of job creation, and in terms of the major impact that it will have on the Montreal community, and Quebec as a whole.

Ms. Kristine Burr: Given that your question necessitates a legal interpretation, I will hand over to Mr. Pigeon.

Mr. Jacques Pigeon (Departmental General Counsel, Legal Services, Department of Transport): Mr. Chairman, there are two provisions that must be taken into consideration when answering Ms. St-Hilaire's question. The first can be found in clause 9 of Air Canada's act. In fact, two clauses come into play on this point. Regarding Air Canada, the current provision in the act remains unchanged. Paragraph 6(1)(e) of the Air Canada Public Participation Act stipulates that Air Canada's head office is to be situated in the greater Montreal area.

Furthermore, in part 4 of the ACPPA, clause 10.3 explains that the incorporating articles of ACE Aviation Holdings Inc., the new holding body corporate, include a similar provision stipulating that its head office is to remain in the greater Montreal area. Two provisions come into play: one applies to Air Canada as a subsidiary of ACE; and the other applies to ACE under the amendments proposed by the minister.

● (0910)

Ms. Caroline St-Hilaire: Ms. Burr, you spoke extensively about official languages. However, the provisions relating to official languages do not apply to all sections of the bill. Why is that? How does this affect employees? Have I understood you correctly?

Ms. Kristine Burr: Yes, you have. Mr. Pigeon, would you please explain which sections of the bill are subject to the Official Languages Act?

Mr. Jacques Pigeon: I assume that you are referring to the provisions that apply, amongst others, to employees. As regards part V of the Official Languages Act, for example, Air Canada's obligations remain unchanged. Part V of the act, which relates to language of work, applies to Air Canada employees and will continue to do so.

However, the newly restructured organization now comprises several affiliates that have replaced Air Canada as we knew it prior to 1 April, 2003. At the time of their corporate restructuring, Air Canada's shares were publicly held. Air Canada had subsidiary corporations at the time when it was placed under the protection of the Companies' Creditors Arrangement Act. The restructuring process resulted in a new corporate structure. Now, as Ms. Burr stated in her opening remarks, the old Air Canada has been replaced by a group of companies and limited partnerships. If you are asking me which of these affiliates will be subject to the provisions of the OLA, I would direct you to clause 10.2 of the bill, which sets out a certain number of rules and decrees which of the new undertaking's affiliates will be subject to official language obligations. The intent of these provisions is to maintain the status quo. If a given operational sector had to respect the Official Languages Act prior to the corporate restructuring, the obligation will continue to apply. The intent of the new provisions is to ensure that the Official Languages Act continues to apply to the same operations that it did prior to the change.

• (0915)

Ms. Caroline St-Hilaire: Mr. Pigeon, you have to admit that Air Canada does not have a glowing reputation when it comes to official languages, in fact, its name is mud. Various people, of all political stripes, including the Commissioner of Official Languages, have raised complaints. If I understand you correctly, the bill will not change much, but it will apply to all of Air Canada's restructured affiliates. Nothing will change, because even if the legislature wanted Air Canada to be subject to the Official Languages Act, the bill does not provide for any sanctions.

[English]

The Vice-Chair (Mr. Jim Gouk): Madame St-Hilaire, could you ask a quick question? Your time is actually up.

Ms. Caroline St-Hilaire: Oh, my time is up.

The Vice-Chair (Mr. Jim Gouk): We'll be back to you, in any case.

[Translation]

Ms. Caroline St-Hilaire: In fact, the bill does not change anything. There is not a single clause that amends the status quo, even in terms of employees and client services. There is nothing to guarantee equal opportunities for both French-speakers and English-speakers. That is my understanding of the situation.

Mr. Jacques Pigeon: May I please answer that question, Mr. Chairman?

[English]

The Vice-Chair (Mr. Jim Gouk): Yes, go ahead.

[Translation]

Mr. Jacques Pigeon: Ms. St-Hilaire, it is important to distinguish between the rules themselves and how they are enforced. The bill aims to amend the rules to bring them into line with the government's objective to maintain bilingualism at the level that existed prior to corporate restructuring.

On the subject of enforcement, you mentioned potential complaints. That is the domain of the Commissioner of Official Languages. Under the terms of the Official Languages Act, the

general public is entitled to file complaints. The complaints will be studied by the commissioner, who will provide testimony to the committee.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Mr. Godin.

[Translation]

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chairman.

I too would like to welcome our witnesses to the committee. Ms. St-Hilaire was correct in what she said: no other company in Canada has infringed the Official Languages Act as often as Air Canada. Indeed, Air Canada has received so many complaints, that it has gone as far as to remove its complaints forms from its seat pockets. They have not been available for more than four months now.

Is Transport Canada using this bill to open the door for Air Canada to replace its Jazz flights to Bathurst, for example, with a service provided by another carrier, which is not subject to the Official Languages Act? What 100 per cent, indeed, 150 per cent, guarantee do we have that this will not happen?

Ms. Kristine Burr: Mr. Chairman, I would like to assure Mr. Godin that we are attempting to maintain the same policy framework. As Mr. Pigeon said, the emphasis will be placed on maintaining the same obligation that existed under the former act.

Mr. Yvon Godin: Mr. Chairman, perhaps my question was not clear enough. I want to know what would stand in the way of the new Air Canada replacing its Jazz flights with flights offered by another carrier, a move which would result in our losing a bilingual service. You said that you will "attempt". That is not what we want; we want a bill that will prevent Air Canada from doing whatever it pleases. I am happy to go on the record as saying that Air Canada is not honest. Air Canada has infringed the Official Languages Act more often than any other company. At the time when Air Canada was undergoing a process of corporate restructuring to avoid bankruptcy, a judge even said that the Commissioner of Official Languages should keep a low profile for the duration. He said that no complaints should be filed against Air Canada under the Official Languages Act. You must remember that. Now the process is complete, and we find ourselves in a situation whereby we may lose bilingual services. What guarantees do we have that this will not happen? I have a specific question for you. What is there to prevent Air Canada from doing via the back door what it cannot do via the front door?

• (0920)

Ms. Kristine Burr: Do you mean, for example, what is to stop Air Canada from replacing its Bathurst service with a service provided by another airline?

Mr. Yvon Godin: Yes, replacing it with an airline run by one of the affiliates in the new holding company.

Mr. Jacques Pigeon: Mr. Chairman, we adopted a conceptual approach to drafting this bill. That is why we speak of "affiliates" in subclause 10.2(1). If Air Canada were to decide tomorrow to change its corporate structure, all affiliates under Air Canada's control would necessarily be affected, thanks to the flexibility offered by this conceptual approach. We chose not to list all of the affiliates in the bill. We chose a conceptual approach to ensure that any undertaking that the affiliate owns or operates, and that comes within the legislative authority of Parliament in respect of aeronautics, would be subject to the act.

Mr. Yvon Godin: Could ACE Aviation Holdings Inc. control an airline that would not be subject to the act?

Mr. Jacques Pigeon: In my opinion, the concept of an affiliate includes all airlines operated by ACE.

Mr. Yvon Godin: Where can we find that in the bill?

Mr. Jacques Pigeon: Subclause 10.2(1) of the proposed bill states: "[...] the Official Languages Act applies to any affiliate [...]", and the term "affiliate" is defined further on in the bill. I will come back to it. Subclause 10.2(1) states:

[...] the Official Languages Act applies to any affiliate of the Corporation in respect of any undertaking that the affiliate owns or operates and that comes within the legislative authority of Parliament in respect of aeronautics.

The concept of "affiliates" is defined in sections (5) and (6) of the same clause. These sections provide a conceptual explanation of affiliates. This would apply to any undertaking providing air services that is owned and operated by an affiliate of the corporation. The definition of "air service" has been broadened to include incidental services. Allow me to list them for you. According to the definition, incidental services include ticketing and reservation services, information services relating to routes and tariffs, and other such services.

My answer to your question would be that we have tried to develop a conceptual approach to include all affiliates owned by ACE, which affiliates own and operate air service undertakings, as per our broad definition.

● (0925)

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you, Mr. Godin.

Mr. Bonin is next.

Mr. Raymond Bonin (Nickel Belt, Lib.): Thank you, Mr. Chair.
[Translation]

I am going to continue along the same line of questioning.

I am concerned by the words "applies to any affiliate of the corporation." What we are seeing at Air Canada, and what we are likely to see more of in the future, is subcontracting. When we contact a call centre, our call is answered by somebody in India. I want the bill to clearly specify that the act will apply to our Indian friends when they are making our reservations. Today, the call centre is in India, it could well be in England next year. Air Canada will go wherever happens to be the cheapest. These call centres are not affiliates; they are companies that have been awarded a contract. I want to ensure that the act applies to such subcontractors. You spoke of a conceptual approach, but I want it to be clearly stated in the bill

that the provisions will apply to any service provided by affiliates or subcontractors.

[English]

Mr. Jacques Pigeon: Yes.

[Translation]

Mr. Raymond Bonin: Indeed, I would like to take this argument further. We have been talking about call centres thus far. However, I foresee the day when the only staff at airports will be those telling people where to go and where to find the washrooms. We do everything ourselves now. I would not want the same excuse to be used for these staff members as is used for those who check our baggage: we are not responsible for them, they work for another company.

Mr. Jacques Pigeon: In answer to your question, I would direct you to section 25 of the Official Languages Act. Parliament's decision to apply the Official Languages Act to Air Canada means that all provisions of the act, including section 25, apply. Section 25 specifies that, where a federal institution—in this instance, Air Canada—contracts a third party, it has to ensure that the third party in question respects all of the act's provisions, especially those listed in part IV, which relate to service to the public, in the same way that the federal institution would have to respect them, were it providing the service itself.

If a federal institution subcontracts out a service for which it is responsible to a third party, section 25 obliges it to contractually ensure that the third party respect the same obligations that the institution itself would have had to respect, were it to have chosen to provide the service. In this case, the institution in question is Air Canada. This obligation applies anytime that part IV applies.

Mr. Raymond Bonin: Why, then, does subclause 10.2(1) state that the act "applies to any affiliate of the corporation"? Why not add what you just said to the bill?

Mr. Jacques Pigeon: It is already included.

Mr. Raymond Bonin: Could we not put it in again? Would that be problematic?

Mr. Jacques Pigeon: In fact, suggested subclause 10.2(2) states:

(2) Only parts IV, VIII, IX and X of the Official Languages Act apply in respect of:

Let us take Jazz by way of example. To say that part IV applies to Jazz, is to say that section 25 of the Official Languages Act, which I have just explained to you, also applies. Where part IV applies, section 25 automatically applies.

● (0930)

Mr. Raymond Bonin: Yes, but Jazz is an affiliate of the corporation. A subcontractor is not an affiliate of the corporation.

Mr. Jacques Pigeon: Fair enough, but you have to understand the following. There are constitutionally defined limits. The Government of Canada does not have control over a business that is not a federal institution. That is an example of one of the constitutional limits in place here in Canada. The same constitutional limit governs the federal government's authority in terms of the Official Languages Act.

If you consult the Official Languages Act, you will see that section 25 does not state that government subcontractors are subject to the Official Languages Act. It does say, however, that the government must ensure—for it is the government that the act renders accountable—that the Official Languages Act is respected.

Mr. Raymond Bonin: I understand that the company that is hiring or outsourcing contracts is responsible for that. I understand that. But what will happen if it didn't do so?

Mr. Jacques Pigeon: If results are not achieved, a complaint against the federal institution will be lodged, if it is a federal institution. In the case of Air Canada, the complaint is made against Air Canada or entities directly subject to the act. Complaints can then be lodged with the commissioner's office regarding a breach of the act.

Mr. Raymond Bonin: Would it be a problem for you if we were to introduce an amendment to subclause 10.2 of the bill on this matter?

Mr. Jacques Pigeon: I think that already exists.

Mr. Raymond Bonin: Yes, but we don't see it. If we were to ensure that it is very visible, would it make life difficult for you?

Mr. Jacques Pigeon: That's a political issue.

Mr. Raymond Bonin: We will be repeating what is already set out elsewhere. However, if we wanted it to appear in subclause 10.2, you would have no objection to that?

Mr. Jacques Pigeon: From a legislative standpoint, I would prefer it, so long as you accept my point of view—

Mr. Raymond Bonin: Let's assume I do. The reason I say that is that Air Canada has never respected the Official Languages Act. I worked for the company for 25 years. If the company doesn't respect it, perhaps the provisions need to be spelled out more clearly.

The department could work on drafting an amendment and I can do the same, but it would be preferable for us to work together to make it clear.

Ms. Kristine Burr: If you allow me, Mr. Chairman, I would add that usually, the Department of Justice does not like us to add provisions to one bill that already exist in another.

Mr. Raymond Bonin: I don't like the Department of Justice because it makes life difficult for us in our clause-by-clause consideration of bills.

Ms. Kristine Burr: We understand the problem you've just raised.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Mr. Scheer.

Mr. Andrew Scheer (Regina—Qu'Appelle, CPC): I have just a very brief question on some of the provisions of this bill.

Air Canada has asked that the government would provide assistance in the language training to get up to the standards that are being enacted here, either through funding their own training programs or by providing access to government training. In their view, this would aid in ensuring employment hiring equity and should be included with Bill C-47 obligations.

Is that something your department is willing to do, willing to provide?

Ms. Kristine Burr: Thank you.

Mr. Chair, Air Canada has mentioned on a number of occasions that they are totally supportive of providing bilingual service. Although we're aware that they do spend money every year on both administrative costs and on training, we're confident that they are able to support the expenses associated with providing bilingual service in this country. So we don't anticipate seeking funding to provide to Air Canada at this time.

• (0935)

Mr. Andrew Scheer: Has Air Canada made a formal request to you for that assistance?

Ms. Kristine Burr: Not to Transport Canada.

Mr. Andrew Scheer: That's all.

The Vice-Chair (Mr. Jim Gouk): Monsieur Carrier.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you.

Good morning. I'll start by asking you a technical question.

In answering some of my colleague's questions, you mentioned that there were provisions stipulating that Air Canada's head office was to remain in Montreal. You say there are provisions in the bill. Would it be correct to say that under the bill the company is required to include these provisions in its own articles of incorporation? These wouldn't be provisions added by the government, would they? They will be imposed upon the company in question. Have I understood correctly?

Mr. Jacques Pigeon: Yes. Under the act the company would be required to include these provisions within its articles of incorporation. The company cannot remove them subsequently, because they are included in the bill. This bill is special legislation which would take precedence over a company's articles of incorporation.

Mr. Robert Carrier: You assume that the company will be under the obligation to include these provisions within its own articles of incorporation once the legislation is passed.

Mr. Jacques Pigeon: Yes, in the same way that Air Canada had this obligation when the Air Canada Public Participation Act was passed, around 1988.

Mr. Robert Carrier: From your experience, is there a deadline for companies to include such provisions?

Mr. Jacques Pigeon: In the case of Air Canada, it had been required to amend its articles of incorporation before a given deadline. The legislative provision we have here means that changes are deemed to have been made. It's a slightly different technique. In other words, you are right, Mr. Carrier, to say that there may be a slight difference here between Air Canada as such, in section 6 of the Air Canada Public Participation Act, and—

In 1988, Air Canada was forced to change its articles of incorporation to include statutory provisions. In this case, in clause 10.3, the government and Department of Justice drafters have used a different method: in other words the articles of incorporation are deemed to include these provisions. The company is not expected to amend its statutes because of this provision. Through a form of legal fiction, Parliament has created a provision ensuring it is deemed to have been done.

Mr. Robert Carrier: I'd like to ask another small question regarding Ms. Burr's presentation.

In response to some comments, you mentioned that the government has never imposed obligations under the Official Languages Act to private sector companies.

The bill, which is intended to ensure that Air Canada be subject to its former obligations, now applies to a private sector company. Have you not considered extending these obligations to all private sector companies and taking advantage of the bill to do so?

Ms. Kristine Burr: We proceeded this way because Air Canada is a former crown corporation. This is the rationale for maintaining obligations set out in 1988. We could impose the same obligations on other airlines. However, this would be a policy change which would lead to a number of complications. We are convinced that the approach we are proposing is fair to the company, as well as to Canadians.

• (0940)

Mr. Robert Carrier: I understand that the bill—

[*English*]

The Vice-Chair (Mr. Jim Gouk): Excuse me, Mr. Carrier, but your time is up. I've been going overtime with everybody. We do have several others who want to talk, and they're only here for the hour.

Mr. Scarpaleggia.

[*Translation*]

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Good morning, and welcome.

A bit earlier someone mentioned that under this bill Air Canada would maintain its head office in Montreal. Is the term "head office" defined somewhere in the bill? For a number of years, the Royal Bank head office was in Place Ville Marie, in downtown Montreal. But, for all practical purposes, the head office was actually in Toronto. Under the bill, and in this case, is the vice-president required to have his office in Montreal? What does it mean?

Mr. Jacques Pigeon: To my knowledge, a head office, under corporate law, is the place of residence of a corporation or a company, but I don't think it is an operational concept. As far as I know, there's no requirement for some operations to be carried out at head office, except perhaps the storing of the company's minutes. The head office is the company's main office. There is no other definition.

Mr. Francis Scarpaleggia: Do you know where the Jazz Air head office is?

Ms. Kristine Burr: In Halifax.

Mr. Francis Scarpaleggia: Apparently, Official Languages Act provisions do not all apply to Jazz Air. Clients must be offered bilingual services, I believe, but internally, there is no requirement for bilingualism, as is the case for Air Canada. This is because it is not an ACE-controlled subsidiary. How do you explain this distinction?

Mr. Jacques Pigeon: That is due to the situation as it stood on April 1, 2003, when restructuring began. At the time, Jazz Air was an Air Canada subsidiary. Air Canada was under no obligation to ensure the subsidiary was complying with Part IV of the Official Languages Act. In order to maintain the status quo, in other words maintain the situation as it stood on April 1, 2003, the bill, under clause 10.2(2) would provide mainly for part IV to apply to Jazz Air. It doesn't involve the entire Official Languages Act, as is the case for Air Canada. Prior to restructuring, only part of the act applied to Jazz Air. Jazz Air only had to comply with part IV.

Mr. Francis Scarpaleggia: So, not all ACE Aviation Holdings Inc. subsidiaries are subject to the same requirements as Air Canada, is that correct?

Mr. Jacques Pigeon: Following changes to the Air Canada Public Participation Act in 2000, Air Canada had to ensure all of its affiliates providing air service were complying with the Official Languages Act. If they weren't, legal liability rested with Air Canada, as it did in the case of the subcontractors Mr. Godin was referring to.

• (0945)

[*English*]

The Vice-Chair (Mr. Jim Gouk): Thank you, Mr. Scarpaleggia.

Mr. Hubbard.

Hon. Charles Hubbard (Miramichi, Lib.): Thank you, Mr. Chair.

I just have a very brief question. In the air industry the word "affiliate" has a lot of different meanings. I have a question, probably for Mr. Pigeon. Are we clear in this bill what affiliate means? We have these international alliances that are often called affiliates. Is there any misunderstanding, or are we clear in terms of what we have written here and proposed as legislation?

Mr. Jacques Pigeon: Well, I think, Mr. Hubbard, that the provisions of proposed subsections 10.2(5) and 10.2(6) make it very clear for the purposes of this bill what an affiliate is. So there is a definition specifically written into the amendments proposed by the bill, to make sure that we actually capture the notion very precisely.

Hon. Charles Hubbard: It is your opinion, then, that the word "affiliate" is properly explained in terms of what might be deemed an affiliate in terms of the international Star Alliance, and other alliances?

Mr. Jacques Pigeon: No, I think the word "affiliate", as used here, is used in the corporate sense, not the business sense.

Essentially, I would reduce it to the simplest expression. An affiliate is essentially a body that ACE controls, either directly or indirectly. That's all I understand by the notion of affiliate. It is probably more complex than that, but it is either a partnership or a corporation that is controlled directly or indirectly by ACE.

Hon. Charles Hubbard: Mr. Pigeon, you feel that the bill is clear enough on that? You used the word “partnership”, which has international significance. But are we clear in terms of what we're doing with the word “affiliate” in terms of—

Mr. Jacques Pigeon: It's my belief that it is clear, yes.

Hon. Charles Hubbard: You are?

Mr. Jacques Pigeon: Yes, that is my position—

Hon. Charles Hubbard: Thank you, Mr. Chair.

The Vice-Chair (Mr. Jim Gouk): Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you.

I just wanted to ask if what's being proposed here changes anything. Would this change anything in British Columbia presently, from the way it stands, and would it affect any employees?

Ms. Kristine Burr: No. We're continuing exactly the same requirements as those prior to the restructuring. There should be no implication or impact at all for employees in British Columbia.

Mr. Don Bell: Thank you.

The Vice-Chair (Mr. Jim Gouk): Are you finished, Mr. Bell?

Mr. Don Bell: Yes, thank you.

The Vice-Chair (Mr. Jim Gouk): Madame St-Hilaire.

[Translation]

Ms. Caroline St-Hilaire: Thank you, Mr. Chairman.

Mr. Pigeon and Ms. Burr, of course, we are concerned about customers—they've had unfortunate dealings with Air Canada—but we are also mindful of workers.

Why voluntarily remove workers from the application of parts V, VI and VII of the Official Languages Act? Is there a reason why you chose not to enhance the security of Air Canada workers?

Ms. Kristine Burr: We didn't change obligations towards Air Canada workers and entities which are now somewhat more at arm's length, such as Air Cargo and Technical Services. Their obligations are the same with respect to staff.

Ms. Caroline St-Hilaire: What would preclude you from improving these conditions for staff? I see that you chose to maintain the status quo. But it isn't working, neither for staff nor for clients. You nonetheless continued in this direction.

Had you decided to enforce the Official Languages Act for staff as well as for clients, you would have sent out a clear message to the company, perhaps to the industry as a whole. Instead, you opted for the status quo, but that is not good enough.

Ms. Kristine Burr: As Mr. Pigeon mentioned earlier, we have a system whereby complaints can be lodged with the commissioner. So, we know these problems will be looked into.

● (0950)

Ms. Caroline St-Hilaire: With all due respect, Ms. Burr, I would say you're simply placing the ball in the commissioner's court.

[English]

The Vice-Chair (Mr. Jim Gouk): Be very short.

[Translation]

Ms. Caroline St-Hilaire: The commissioner receives complaints, but the fact that there is an increasing number of them is not having any effect on the fact that at the moment French services are inadequate, for francophone clients as well as for employees. You say the commissioner hears complaints, and indeed, she does. But in actual fact, she has no means at her disposal to deal with them or impose sanctions upon Air Canada. Your bill simply maintains the status quo, which isn't working. It doesn't suit me and it doesn't suit the people of Quebec.

Ms. Kristine Burr: We have had dealings with Air Canada representatives. They assured us that they are beginning to offer better service and that that was allowing them to implement an effective business plan.

Ms. Caroline St-Hilaire: I understand it isn't your fault. Thank you.

[English]

The Vice-Chair (Mr. Jim Gouk): Monsieur Godin.

[Translation]

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

Are you actually trying to tell us that Transport Canada people believed Air Canada? How can this company assure you of anything? Company representatives appear each year before the Standing Committee on Official Languages. I've been sitting on the committee for four or five years now and without fail, they have had to testify. How could you have believed them?

Ms. Kristine Burr: I would like to mention that other airlines are now offering services to Canadians in some areas. These companies are currently hiring bilingual staff. There are a number of competitions being held. We hope Air Canada will draw inspiration from this initiative.

Mr. Yvon Godin: I understand, but at the end of the day, we are here to legislate. If Air Canada decides to be a good citizen, do good business and offer services in both official languages, we will be very pleased. That being said, our role is to develop legislation and make sure it is respected.

Regarding language of work, we mentioned service to the public. What type of protection exists for staff wanting to discuss their problems in the workplace?

Mr. Jacques Pigeon: In the case of Air Canada, the status quo applies. In other words...

Mr. Yvon Godin: I do not want to know what it is, I want to know whether workers are protected.

Mr. Jacques Pigeon: Part V of the Official Languages Act does not apply to all entities, in this case. However, when it does apply, it protects workers with respect to language of work.

Part IV deals strictly with service to the public. Part V deals with language of work.

Mr. Yvon Godin: Will Air Canada or ACE staff be protected under C-47?

Mr. Jacques Pigeon: The bill is intended to maintain the level of bilingualism that existed on April 1, 2003. The bill therefore does not address Air Canada's obligations; nothing has changed. With respect to Air Canada's former administrative divisions, which are now separate limited partnerships—such as Ground Handling Services and Technical Services—we maintained the obligation which existed in the past. The bill will have that effect.

Only part IV applies to Jazz, for the reasons I have already mentioned. Part V does not apply to Jazz. With respect to new entities which could be created after the bill enters into force part IV would apply, and not Part V.

• (0955)

[English]

The Vice-Chair (Mr. Jim Gouk): Just before you go, if I may, I just wanted to get some clarification on code sharing. If United Airlines, for example, flies out of Vancouver, code sharing, where people actually buy tickets on Air Canada's flight so-and-so, and they're flying on United Airlines, what language requirements would be imposed in that circumstance under this bill?

Mr. Jacques Pigeon: My understanding is that it would not apply to entities that are not qualifying or do not come within the meaning of the word "affiliate" as defined in this bill. Code sharing in and of itself will not necessarily extend the application. At least that's my understanding.

The Vice-Chair (Mr. Jim Gouk): I have one final comment, if I may, to Ms. Burr.

When you responded to the question dealing with assistance for Air Canada in language training, or access to the government language program, you said you believed they were more than capable of providing their own program, but later, on another question, you said that you'd talked to them and they were working to improve what they're doing.

Given that we are imposing on Air Canada a requirement that we don't impose on their competitors, I think it might be incumbent on the department to look at providing some assistance to Air Canada to provide some equalization in terms of this special restriction on Air Canada that we are supporting.

Ms. Kristine Burr: Thank you, Mr. Chair.

They have said they would be prepared to provide bilingual service whether or not this obligation was imposed on them. Again, it would be for commercial reasons. We took some comfort that they were able to do their own training. In all fairness, I would admit they have made representations that they would like some assistance.

The Vice-Chair (Mr. Jim Gouk): Politeness sometimes can't hurt.

Ms. Burr, Mr. Pigeon, Ms. Vransky, thank you for appearing before us.

Before we proceed with the next group coming in, Madam St-Hilaire, did you want to deal with your motion at this time?

[Translation]

Ms. Caroline St-Hilaire: I think all committee members received a copy of my motion.

[English]

The Vice-Chair (Mr. Jim Gouk): Can I get the committee's attention, please? We're dealing with Madam St-Hilaire's motion. I believe you have it in front of you.

Does anyone have questions on it?

[Translation]

Ms. Caroline St-Hilaire: I would like to remind you that we already approved a motion regarding flight attendants. In response to my colleague Francis' question, the minister stated that within his work plan there are no regulations regarding decreasing the number of flight attendants. I would like a guarantee on that, because I would not want Transport Canada officials to go about working on it without consulting us, without guaranteeing that it will not end up in the *Gazette*. I would like the chair to write to the minister so that we can have guarantees to that effect.

[English]

The Vice-Chair (Mr. Jim Gouk): Mr. Hubbard.

Hon. Charles Hubbard: Thank you, Mr. Chair.

I am new on the committee, but it's my understanding that this issue was discussed at a meeting last April. Maybe the clerk could bring us the blues, which indicated the position of the department on that matter. I think the former chair probably could—

The Vice-Chair (Mr. Jim Gouk): Mr. Bonin, can you shed some light on this?

Mr. Raymond Bonin: Yes, Mr. Chair. I was chairing the meeting when the department guaranteed that they would run it by the committee before making a final decision. It's a little while back, and I wouldn't want anyone to misrepresent what they promised us.

I'm taking it for granted that they will run it by us before making a final decision or gazetting it, because they promised us this at the meeting I was chairing. It may be a good thing to bring out the blues, but I will support the motion. I don't think we should have to put in a motion questioning our employees when they promise something to this committee. But to make it completely clear, I will support the motion.

• (1000)

The Vice-Chair (Mr. Jim Gouk): Just further to that, if I may, I have the minutes, not of that meeting but of a meeting prior to that, where the committee passed a resolution that no further action take place on this action and that anything done come before the committee. So it is in keeping with what has been done in the past.

Mr. Raymond Bonin: There is a difference here, Mr. Chair. The committee can say that nothing be done before it comes here, but they don't have to come to committee for regulations. I would rather put the weight of our request on their commitment. They said they would run it by this committee. It's no longer that they may or they might; they committed to it.

The Vice-Chair (Mr. Jim Gouk): I just point out that what they committed to was later, after this committee specifically asked them to do exactly what they said.

Mr. Raymond Bonin: We can find the blues, and in the meantime vote for this motion.

The Vice-Chair (Mr. Jim Gouk): Are there any further comments?

Mr. Don Bell: Can I ask a question? If I understand then, the minister previously said that he would do this.

The Vice-Chair (Mr. Jim Gouk): The staff did.

Mr. Don Bell: I see. Okay.

(Motion agreed to) [See *Minutes of Proceedings*]

The Vice-Chair (Mr. Jim Gouk): Madame St-Hilaire.

[*Translation*]

Ms. Caroline St-Hilaire: Mr. Chairman, before we proceed with the commissioner, I would like to discuss CN, which will not be appearing next Thursday. Would you prefer we deal with that after the commissioner's appearance? I would like committee members to discuss it. CN has once again declined our invitation.

[*English*]

The Vice-Chair (Mr. Jim Gouk): We're running a touch behind now. If we could get the witnesses to come forward, we'll keep a little time to deal with that at the end.

Could the witnesses for the Office of the Commissioner of Official Languages come forward?

Ms. Adam, can you introduce your colleagues and proceed with your opening remarks?

[*Translation*]

Ms. Dyane Adam (Commissioner of Official Languages, Office of the Commissioner of Official Languages): Thank you, Mr. Chairman.

[*English*]

I would be pleased to present my staff, my team: the director general, investigations branch, Michel Robichaud; Johane Tremblay, director, legal affairs branch, and an expert on, I guess, transport and all those...; and Carole Chouinard, also a legal adviser.

[*Translation*]

Thank you for giving me this opportunity to comment on bill C-47, which seeks to amend the Air Canada Public Participation Act.

First, let me say that I am pleased that the government has tabled a bill to make this legislation reflect the new structure of Air Canada. As you know, the goal of Bill C-47 is to carry out the government's commitment to uphold the language rights of the public and of Air Canada employees following Air Canada's restructuring.

On the positive side, I note that Jazz is now explicitly and directly subject to the provisions of the Official Languages Act concerning service delivery in both official languages, as well as to the provisions concerning my powers of investigation and judicial remedies. This amendment accurately reflects the government's commitment to uphold the status quo.

Air Canada itself, of course, continues to be subject to the Official Languages Act, according to the existing wording of the Air Canada Public Participation Act. However, the restructuring has created new entities to replace what were previously internal divisions of Air Canada. Bill C-47 therefore seeks to ensure that all the official languages obligations of Air Canada are applicable to these new entities. I am speaking of Air Canada Ground Handling Services, Air Canada Technical Services, and Air Canada Cargo. I am also referring to Air Canada Online, which offers ticket purchasing online.

I have examined the bill in light of its intent, and I now wish to suggest certain changes. In order to visualize the practical effects of the bill, I have prepared an explanatory chart—I think that you have received copies—which you will find attached to the text of my speech. This is an organization chart prepared by Air Canada in connection with the restructuring. I have taken it and made modifications to illustrate the impact of the bill. As my colour coding shows, only Air Canada and Jazz are clearly subject to the Official Languages Act. Air Canada is shaded in a far brighter yellow as it is fully subject to the Official Languages Act, whereas Jazz is only partially subject to the act, by which I mean that it is only bound to respect certain sections.

The four other entities, Air Canada Ground Handling Services, Air Canada Technical Services, Air Canada Cargo and Air Canada Online, are shown in grey to indicate that there is uncertainty about how the act applies to them. I must tell you that this uncertainty about the application of the act to these former divisions of Air Canada is of great concern to me. The ambiguity in the wording lies in the new subsection 10.2(1), which provides that the Official Languages Act applies to any affiliate of Air Canada “that comes within the legislative authority of Parliament in respect of aeronautics”. However, the bill does not explicitly name the entities within the new structure that are subject to this general provision. In my view, the language here is ambiguous and could give rise to a divergence of opinions as to which affiliates come within the “legislative authority of Parliament in respect of aeronautics”.

A further ambiguity arises from the new subsection 10.2(4). The intent of this subsection is to restrict the application of the Official Languages Act set out in subsection 10.2(1). My advisors tell me that the wording here should be changed slightly to ensure that the government's intention to uphold the status quo is clearly reflected.

•(1005)

[English]

In my view, the most practical way to reflect the government's intention to uphold the language rights of the public and employees is to state explicitly that the former divisions of Air Canada are subject to the Official Languages Act. In consequence, I propose that subsection 10.2(1) be changed to make ground handling, technical services, and cargo explicitly subject to the act. Air Canada Online should also be mentioned explicitly.

These clarifications are important because they will prevent these entities from challenging the application of the Official Languages Act to them, as Air Canada has done itself many times in the past. At the end of the line, I believe all concerned would benefit from a precise formulation. It would be desirable to avoid a situation where the travelling public receives unilingual services on the ground at their departure point, bilingual services in the air, and unilingual services again on the ground at their arrival destination.

I am sure you will not be surprised if I tell you that Air Canada has always had a great deal of difficulty complying with its language obligations. Over the last 35 years, year after year, Air Canada has been at the forefront of the five federal institutions about which the most complaints were made regarding service in the two official languages. I would even say they were either first or second, and once in a while they would drop to third. Today, the situation has barely improved, despite much effort by me and my predecessors in the form of responses to complaints, follow-ups, audits, annual reports, and studies, not to mention numerous statements by parliamentarians, yourselves.

Furthermore, despite clear and precise obligations under the Official Languages Act and later under the Air Canada Public Participation Act, Air Canada has frequently demonstrated a recalcitrant attitude toward its obligations, forcing complainants and the Office of the Commissioner to ask the courts to clarify the law.

In 1996, for example, the Office of the Commissioner found itself before the Federal Court in two different matters, as a result of systemic problems with Air Canada ground services. While we were able to conclude an agreement with Air Canada through mediation, we have continued to receive numerous complaints. More recently in Federal Court, a complainant, Monsieur Michel Thibodeau, was successful in his proceeding against Air Canada, which was refusing to recognize the true nature of its language obligations. However, Air Canada is now appealing to the Federal Court of Appeal.

Perhaps this background will allow you to understand why my main concern about this bill is that it states clearly and precisely the obligations to which the former operational divisions of Air Canada will be subject. In my view, it is vital that the legislature use clear language in the bill to avoid further court proceedings, and evidently to ensure that all Canadians have their linguistic rights respected by Air Canada.

To conclude, Bill C-47 has an important objective, namely to ensure that the traveling public and Air Canada employees continue to benefit from the same rights they had before the company's restructuring. My comments today sought to ensure that this

objective is achieved. The specific changes I am proposing are attached to the text of my speech.

My reading of the bill suggests that the objective has been met with respect to Jazz, in the context of sustaining the status quo. However, regarding the new companies, which were formerly an integral part of Air Canada, it is unclear what the future holds. I would encourage you to improve this bill so that we do not encounter any turbulence—pardon my pun—as we seek to uphold the linguistic rights of Canadians.

Thank you for your attention. My staff and I would be happy to answer your questions, if you have any.

Merci.

•(1010)

The Vice-Chair (Mr. Jim Gouk): Thank you, Madame Adam.

Mr. Scheer.

Mr. Andrew Scheer: I have a couple of very brief questions.

Given that the bill is putting more language obligations on Air Canada, do you believe that they should have access either to funding for their own training or to government-run training facilities to help them comply with the standards that are being proposed?

Ms. Dyane Adam: As Commissioner of Official Languages, what I'm most interested in are results. I leave it to the government to make the decisions as to how they encourage institutions—and in this case, it's a private company. If it were part of the federal family, it would be easier for me. Still, I prefer not to comment on these decisions, which I believe are the prerogative of government. But if help and assistance are needed on a temporary basis to make that happen, I guess this is what the government has to balance. What we want, evidently, from Air Canada is compliance with federal legislation in ensuring that the linguistic rights of the travelling public and Canadians are really respected.

The Vice-Chair (Mr. Jim Gouk): Madame St-Hilaire.

[Translation]

Ms. Caroline St-Hilaire: Thank you, Mr. Chairman.

Good morning, Ms. Adam. I wish that you could have been here when the departmental officials provided testimony earlier this morning, because you still have a long way to go with Air Canada. On reading the bill, it is clear that there is a desire to maintain the status quo, and to continue to direct complaints to your office. At the end of the day, nothing is really going to change at Air Canada. You rightly said that Air Canada has excelled itself in failing to respect the Official Languages Act. You do an outstanding job, but that is not what I want to talk about today. I am aware that complaints are filed with your office, but could you please tell us, in concrete terms, what can be done to make companies such as Air Canada respect the OLA? Should we provide your office with more means and resources to enforce it? Would you like to see the act amended?

•(1015)

Ms. Dyane Adam: In my view, your first step should be to strengthen the bill, and ensure that, as a committee, you make the necessary clarifications to avoid creating loopholes for Air Canada and its various affiliates. The bill has to be as precise as possible.

In my experience, and in the experience of my team at the Office of the Commissioner, an act, or a section of an act, that is ambiguous constitutes a licence for recalcitrant institutions to disregard our expectations. The more precise the legislation, the more difficult it will be for a federal institution to circumvent the act. That is why I am here today.

We have policies and legislation to govern every aspect of our society. We need to have oversight mechanisms. If an institution fails to respect the law, it has to face up to the consequences. Our complaints system is a mean by which the Canadian public can be heard by the commissioner. Following a complaint, the commissioner makes recommendations. Were Air Canada not to redress the situation, there is the option of legal remedy, but it should be seen as a last resort, because it is a costly and lengthy process. Furthermore, even after having obtained a remedy, it is not uncommon to see the same problem recur. You can take a horse to water, but you cannot make it drink.

Ms. Caroline St-Hilaire: Air Canada constantly breaches the Official Languages Act. What consequences have the infringements carried thus far? Not a great deal, if you ask me. Air Canada still fails to provide quality service in both official languages, and its clients suffer the consequences. I am delighted to hear you say that the bill ought to be more precise, because the officials who appeared earlier said that was not the case, as certain elements are included in other legislation. You, however, are telling us otherwise. I would like to hear your views on the consequences.

Secondly, you said that Jazz is not doing too badly; you seem satisfied. However, part V of the Official Languages Act will not apply to Jazz. Jazz employees, therefore, have every right to be worried. Would you not agree?

Ms. Dyane Adam: Before becoming Jazz, Air Canada Jazz was indirectly subject to part of the act, in that Air Canada effectively handled the complaints that we received about Air Canada Jazz. Air Canada dealt with them. As regards language of work, Jazz was never explicitly subject to the act. When the federal government announced that it would table this legislation, it undertook to maintain the status quo; and I have to admit that it has respected that commitment. In my view, Jazz needs to be fully subject to the act. Various regional carriers around Canada are offering short-haul flights, be it in rural, isolated areas outside Quebec, with French-language communities, or in Quebec regions that have isolated English-language communities. There is also talk of employees being able to work in the language of their choice, both in Quebec and elsewhere in the country.

• (1020)

Ms. Caroline St-Hilaire: I would like to return to the consequences of failing to comply. A great deal has been said about the fact that the option of legal remedy is always available. However, as you correctly pointed it out, it is a long and costly process. I do not think that Canadian taxpayers should be in a situation whereby they file a complaint about Air Canada with your office and wind up before the courts.

Given Air Canada's record, do you not think that we need to have the possibility of imposing sanctions? What can we do to give more teeth to the Official Languages Act? What can we do to make sure that it is enforced, rather than simply existing as an ideal?

Ms. Dyane Adam: The commissioner does not have the authority to impose sanctions or the payment of damages. A plaintiff would have to go to court. This matter has been discussed by certain parliamentary committees in the past. There was talk of perhaps introducing sanctions similar to those enshrined in other legislation, such as the Aeronautics Act or other security acts. Were an airline to fail to comply with security legislation, sanctions would be imposed almost immediately. This is something that was discussed, but to the best of my knowledge, it went no further.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Monsieur Godin.

[Translation]

Mr. Yvon Godin: Mr. Chairman, allow me to welcome the commissioner to our meeting this morning.

Transport Canada officials told us that they had held discussions with Air Canada, and were convinced that Air Canada intends to respect the Official Languages Act, as it makes good business sense. Do you agree? Do you think that will resolve the problems regarding Air Canada and the Official Languages Act?

Ms. Dyane Adam: When any federal institution makes such a comment, the office of the commissioner recognizes that its intentions are noble. However, as we say, the proof is in the pudding. It would take some convincing before we accept their commitment as fact. We believe that it is action that counts. Given Air Canada's record of bad attitude, infringements and problems requiring attention, I think that it has a long way to go.

Mr. Yvon Godin: You do not believe, therefore, that the problem will be resolved by Air Canada simply declaring that it intends to respect the act.

Ms. Dyane Adam: Exactly. Our office expects more than that.

Mr. Yvon Godin: Let us now turn to the amendments that you are proposing. Are you saying that your lawyers have studied Bill C-47, and reached the conclusion that this is what is really needed to give more teeth to the bill? Are you satisfied with the bill?

Ms. Dyane Adam: I would let legal counsels answer that question. I am accompanied by two lawyers this morning, and I am sure that their input will be extremely useful to you.

Ms. Johane Tremblay (Director, Legal Affairs Branch, Office of the Commissioner of Official Languages): Proposed subsection 10.2(1) allows for clarification of the legislator's intent. This is something that is important, if we wish to avoid winding up in court, because some aspects of the bill are ambiguous and could be challenged.

I am going to hand over to my colleague, who will speak to you about the amendment to subclause 10.2(4).

Ms. Carole Chouinard (Lawyer, Special Advisor, Office of the Commissioner of Official Languages): Some of the amendments to subclause 10.2(4) aim to clarify which affiliates will be subject to clause 10.2. The intent of the amendments to subparagraph (iii) is to standardize the French and English versions. If you look at the bill, you will see that the English version states:

(iii) a partnership controlled by a person controlled by ACE Aviation Holdings;

The French text, however, states:

(iii) les sociétés de personnes contrôlées par la personne qui la contrôle;

The public is the person that controls ACE. I find it difficult to imagine how partnerships can be controlled by the public. That is the rational underpinning of proposed amendments to this paragraph.

• (1025)

Mr. Yvon Godin: Were your proposed amendments adopted, would Aeroplan be subject to the act? According to Transport Canada, contracts are subject to the act, but this is challenged by Air Canada. Indeed, I would like to publicly thank Air Canada for doing so.

Ms. Dyane Adam: Aeroplan would not be directly subject to it.

Mr. Yvon Godin: Even with your suggestions?

Ms. Dyane Adam: Yes. Can you explain why, Johane?

Ms. Johane Tremblay: Because, either way, Aeroplan is excluded from subclause 10.2(4). These activities do not clearly fall under Parliament's legislative authority, unlike other activities. Ground services, in-flight services and ticketing are more clearly under federal legislative authority. This is why they aren't covered. There are limits to what Parliament can do to regulate official languages use in companies. They can only...

Mr. Yvon Godin: But in actual fact, Aeroplan is ticketing.

Ms. Johane Tremblay: It's more like a frequent flyer program; it is not strictly ticketing. However, the fact that this does not relate directly to Aeroplan does not mean the company has no obligations. We believe that it does have an indirect obligation, in that it is acting on behalf of Air Canada. It is a frequent flyer program for Air Canada and Jazz. So, it could be said that it is acting on behalf of both companies. Air Canada and Jazz should ensure that Aeroplan offers services to the public in both official languages. If you file a complaint against Aeroplan, the investigation would include Air Canada and Jazz to make sure there are linguistic clauses within their agreements.

Mr. Yvon Godin: As transport representatives stated earlier, the onus would be on Air Canada to force Aeroplan to provide services in both official languages.

At the official languages committee, we discussed giving the bill some teeth. If you're driving 140 kilometres per hour and don't get a ticket, you keep on doing it. If you just get a slap on the wrist, and are told to slow down, you'll go just as fast. There should be contraventions issued under the act if we want it to be taken seriously, specifically in the case of a group which disregards the law on a daily basis.

Ms. Dyane Adam: There is no doubt that there should be contraventions or sanctions.

Mr. Yvon Godin: Thank you.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: Thank you, Mr. Chair.

[Translation]

Good morning, Ms. Adam. Correct me if I'm wrong, but my understanding is that you are of the view that part V of the Official Languages Act, on language of work, applies to Air Canada Jazz.

Ms. Dyane Adam: No, it doesn't.

Mr. Francis Scarpaleggia: But you believe it should?

Ms. Dyane Adam: Yes.

Mr. Francis Scarpaleggia: You believe it should also apply to Technical Services and Ground Services?

Ms. Dyane Adam: The government believes that is the case. According to the team which appeared before me and according to the brief you received, Ground Handling, Technical Services and Cargo as well as Air Canada Online should be subject to the act, notably in terms of language of work.

• (1030)

Mr. Francis Scarpaleggia: When it comes to respecting requirements under the act, why do you think Air Canada is lagging behind? Is it ill will on its part, a financial matter or a lack of bilingual staff outside Quebec?

Ms. Dyane Adam: Over the last few decades, they've come up with a number of reasons. This institution has of course undergone a number of changes over the period. The reasons vary from time to time. Air Canada often claimed that it was difficult to respect its obligations because of union agreements. They mentioned unilingual employees already in positions, etc.

In my statement, I mentioned the Federal Court ruling in the Thibodeau case. At the Office of the Commissioner of Official Languages, we believe—and it was endorsed by the ruling—that the Official Languages Act takes precedence over union agreements. Employers are bound by their legislative obligations. When there isn't enough bilingual staff, this principle should guide any redeployment of staff. Air Canada has a complicated way of assigning staff.

Mr. Francis Scarpaleggia: Do you believe that Air Canada would rather breach the act than amend collective agreements to respect the precedence of the Official Languages Act, which could lead to strike action, and therefore to a financial loss? Do they think it is cheaper to disregard the law? Mr. Godin was mentioning that earlier.

Ms. Dyane Adam: I'd simply like to add that with respect to the union, the problem was that based on seniority, employees had the right to decide where they wanted to be assigned. A unilingual anglophone Air Canada employee could choose to be assigned to a Montreal-Quebec City flight.

Under the ruling, employers may now make decisions allowing them to comply with the act. Will this ruling incite people to reorganize staff, in order to comply with their obligations? We hope so. Will the institution become a leader when it comes to official languages? Only time will tell.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Mr. Bonin.

[Translation]

Mr. Raymond Bonin: Thank you, Mr. Chairman.

I won't harp on the way Air Canada has operated over the last 30 or 40 years, we are well aware of that.

When I worked for Air Canada, I was hired because I was bilingual. They needed a bilingual employee, and I was it. When we received a French call, someone would shout out:

[English]

"French call on three".

[Translation]

So, I got paid as much as everybody else, I took my share of calls, and then I took all calls from francophones that anglophones could not deal with.

When people started asking for francophone services in very bilingual areas such as northern Ontario, the company had a problem in that it hadn't hired enough francophones or people with the ability to speak French. I was the only one. They needed at least one bilingual person, but didn't hire more than one. The company is the architect of its own misfortune.

I'd now like to deal with those grey zones and even white zones. I see things from another angle. This company has the privilege of using the word "Canada". When you're in China, England or elsewhere in the world, any company with the word "Canada" in it, such as Air Canada, carries the country's logo.

Take Aeroplan for instance. Air Canada doesn't have the right to sell Mr. Schwartz Aeroplan shares, and yet to continue to give the impression we're still dealing with Canada. If Mr. Schwartz does not want Aeroplan to offer French services, he should change the company name. As far as I'm concerned, it's a privilege to be able to use the word "Canada" and the maple leaf. People are using it willy-nilly, without any respect for Canadian laws. This alone would be enough of a reason to tell them that if they don't improve services, they will no longer have the privilege of using our beautiful country's name.

• (1035)

Ms. Dyane Adam: I must admit, Mr. Bonin, it's the first time I've ever heard this argument. I find it quite compelling.

Mr. Raymond Bonin: I should have started by welcoming you, Ms. Adam. You come from my region, northern Ontario. We are very proud of you, because you do extraordinary work and are a good representative of our community throughout the world.

Ms. Dyane Adam: Thank you.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Monsieur Carrier.

[Translation]

Mr. Robert Carrier: Good morning, Ms. Adam. I'm pleased to meet you and to hear what you have to say. This is the first time I've had the pleasure.

I know how important your work is, ensuring respect for both official languages in Canada. That being said, it seems to me that this mission would require that you go beyond maintaining a status quo which is hardly acceptable, as has already been stated.

Let's get back to Aeroplan. If they are not offering French services, it means that francophones cannot have access to their services. They would absolutely need to use their second official language to access them. Francophones are still being considered second-class citizens. It's deplorable.

I like what you are saying. You're warning us about flaws in the current legislation and its inability to force Air Canada to comply with its obligations. This is why I would have preferred it if you had gone further than the current legislation.

Given the fact that ACE Aviation Holdings Inc. is a private company which now owns the national Air Canada company, perhaps this opens the door to more fairness: perhaps all airlines offering services to Canadians should do so in both official languages. That could be the subject of a recommendation.

It is true that you do not legislate, but I think you should take advantage of this opportunity to ask for all services to be offered in both official languages. I'd like to hear what you have to say on this.

Ms. Dyane Adam: In the current context, it is imperative to bring in legislation to deal with Air Canada's status immediately. At the moment, the company is in limbo. It is subject to legislation, but not really. You also asked whether we should perhaps reconsider legislation applying to the entire airline industry.

The government is showing increasing interest in air liberalization, so perhaps now would be a good time to look into that. We know that the Aeronautics Act imposes some language obligations on all air carriers. There's also the issue of the cassette tape, which you know of. But, in the case of a real emergency, the cassette cannot speak. People are very reluctant to address this problem. And I'm not simply referring to aircraft, it could happen on trains or other modes of transportation which fall under federal jurisdiction. I'll take this opportunity to say that I would be delighted to be asked to deal with this issue. Perhaps the government would consider it a challenge issued by the Standing Committee on Transport. Who knows?

With respect to your question about the host of entities that now constitute Air Canada, I must tell you about the way the federal government is operating now. Some federal institutions hire third parties and the private sector to deliver their services. When a federal institution calls on such an entity, the entity is not subject to the Official Languages Act. The federal institution, however, is. In that case, the entities delivering the services do not entertain public complaints about the given services, but the federal institution does. As you can see, this type of arrangement exists even within our federal institutions.

If, as commissioner, I were to say that the private sector cannot operate like Air Canada, my credibility would suffer somewhat. The federal apparatus has to ensure some consistency. Am I making myself clear?

• (1040)

Mr. Robert Carrier: On that point...

[English]

The Vice-Chair (Mr. Jim Gouk): Mr. Carrier, a final comment, if you wish, very quickly.

[Translation]

Mr. Robert Carrier: I'd simply like to respond to that comment. The federal government grants many contracts to the private sector. I'm finding it difficult to understand that there is no requirement to apply official languages policy in that case. Unfortunately, the government is handing over its obligation to provide services in both languages. Public calls for tender must be submitted in both languages.

Ms. Dyane Adam: If you allow me, Mr. Chairman, I'd like to say that Aeroplan, as noted by my official, will be offering services in both official languages. That is the result of an agreement reached between Ace Aviation and Aeroplan. Aeroplan appears in white in this table, because it is not directly subject to the act. That does not mean that it does not offer services in both languages.

Mr. Robert Carrier: We could add it as a recommendation.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you, Monsieur Carrier.

Monsieur Godin.

[Translation]

Mr. Yvon Godin: Thank you, Mr. Chairman. Earlier on, you mentioned the Thibodeau case. Could you briefly explain to us what exactly Air Canada is appealing? Is the company claiming not to be subject to the act?

Ms. Johane Tremblay: The Thibodeau case is representative of how section 25 works. In this case, there was a third party, Air Canada Jazz. The Federal Court ruled that Air Canada was supposed to ensure that Air Canada Jazz offered its services in both languages: this is an obligation of result. There was no question of taking every possible step. In fact, Air Canada said that it was rather an obligation of means. Nevertheless, the Federal Court held that it was an obligation of result. The effects are much more significant. This is one of the reasons why Air Canada is appealing the decision.

On the other hand, Air Canada does not challenge the principle whereby the act takes precedence over the collective agreement. In fact, the court's ruling in this respect is most satisfactory to the company, in my view.

Mr. Yvon Godin: I asked a question earlier. Could ACE Aviation Holdings Inc. do something similar—for example buy some aircraft and begin offering service to Sudbury—and claim to be a small secondary company?

Does this bill protect us or not? Does it make you somewhat nervous?

Ms. Dyane Adam: It is true that the provisions are somewhat general, or almost generic, but the fact remains that in my opinion, an operation that comes under federal jurisdiction such as aeronautics would clearly be subject to the act.

I see the lawyer is wrinkling her brow. I think she disagrees.

● (1045)

Ms. Johane Tremblay: In the case of a partner, not an entity of the group as defined in the bill, it is not subject to the requirements of the act.

Mr. Yvon Godin: However, Air Canada could make a profit as a partner of ACE Aviation Holdings Inc. Consequently, Air Canada could decide to cancel its flights to Sudbury, and ACE Aviation Holdings Inc. could offer such flights without being subject to the act.

Ms. Johane Tremblay: If ACE Aviation Holdings Inc. does so in association with another entity which is part of the group, it will be subject to the act.

Mr. Yvon Godin: And what happens if this other company is not part of the group and ACE Aviation Holdings Inc. does this?

Ms. Johane Tremblay: ACE Aviation Holdings Inc. is an entity that can function only through other entities. It is only a holding company. It is not involved in air transport. It therefore can function only through another entity.

Mr. Yvon Godin: Perhaps my question was not clear. I want to know whether there are any guarantees that no entity will be able to do on the quiet something that another entity cannot do openly.

Ms. Johane Tremblay: Earlier, someone—and I do not know whether it was you—asked a question about a new undertaking. New undertakings offering air service would be subject to the obligations with respect to services and communications. Further on in the bill, there is a definition of a new undertaking, and there is another slight ambiguity here. The definition states that the new undertaking “does not replace the Corporation [...] the provision of services”.

What is meant by the words “does not replace”? Is offering a few routes enough to constitute a new undertaking? In this respect, the definition of new undertakings is ambiguous.

These new undertakings would be subject to part 4 of the bill only. They would not be covered by subclause 10.2(1), but rather by subclause 10.2(2)(b) to the extent that they meet the definition of new undertakings that replace Air Canada and that offer services in its place.

Ms. Dyane Adam: In other words, Johane, there is some ambiguity with respect to new undertakings.

Mr. Yvon Godin: If a text is ambiguous, could your service make it clear?

Ms. Johane Tremblay: Yes, we will look after that.

Mr. Yvon Godin: And you will send that to the clerk?

Ms. Johane Tremblay: Yes.

Mr. Yvon Godin: Thank you very much.

[English]

The Vice-Chair (Mr. Jim Gouk): Thank you.

Mr. Bell.

Mr. Don Bell: Thank you.

Welcome. I'm sort of new to the Official Languages Act and to some of this, so you'll have to bear with me.

I have two questions I want to ask. The first relates to this issue of affiliates. I've looked at, on page 3 of the act, proposed subsection 10.2(5), and as I understand it, the key to the word "affiliation" is ownership. There's some kind of legal partnership. For example, United Airlines and Air Canada are not affiliates; it's a cooperative commercial venture.

A voice: A joint venture.

Mr. Don Bell: A joint venture. At Star Alliance they're allied but they're not affiliates. Whether they choose to offer bilingual service is an economic decision for them, a competitive decision. Okay.

The other question I have is on the issue of workers. As I understand it, it's not a requirement that all workers be bilingual but that bilingual services be available. In a part of the country where French may not be a dominant language—in British Columbia, for example—the service just has to be available; it doesn't mean that every employee has to be bilingual.

Ms. Dyane Adam: Exactly. What is important is that in the end, you offer equal services in both official languages, continuous services, the same quality. But it doesn't mean at all that all the employees have to be bilingual.

Mr. Don Bell: So if there is only one employee offering the service, then that employee would have to be bilingual, but if there is a larger department, then there has to be somebody able to offer that bilingual service within that department.

Ms. Dyane Adam: We have to be watchful of the numbers. What you have to keep in mind is the service, so if you need two employees or three, you may need five, because if you're working shifts, seven days a week, you have vacations, illnesses, and as an employer you have to ensure that your services will be available in both official languages all the time and with the same quality.

The Vice-Chair (Mr. Jim Gouk): Thank you.

Madam Adam, thank you very much, you and your colleagues, for appearing before us and sharing your insights.

•(1050)

Ms. Dyane Adam: We'll send you the homework we got from the committee today.

The Vice-Chair (Mr. Jim Gouk): Thank you very much.

Colleagues, if you would just remain for a minute, Madam St-Hilaire has a concern to raise.

[Translation]

Ms. Caroline St-Hilaire: Mr. Chairman, I would like to stress that this is the third time that representatives from CN were supposed to appear before the committee, and then they tell us they will not be coming, at the last minute. We were supposed to meet with them on Thursday to talk about the bridge in Quebec City, among other things—we have passed a motion on that—and about security as well. We have seen some highly critical reports of CN in this regard. CN is showing complete contempt for the committee. We should send it a subpoena or a very clear notice ordering its representatives to appear on Thursday of this week. The situation is urgent and CN is showing contempt for our institutions. This is starting to exasperate me.

[English]

The Vice-Chair (Mr. Jim Gouk): Madam St-Hilaire, if I may, I talked to CN yesterday. They indicated that they are ready and able to come before the committee on Thursday to deal with the Pont de Québec, but the specific person who would deal with safety is at a director's meeting in either Calgary or Edmonton that day, and that is the most appropriate person. They said they would be prepared to come at the earliest possible time, which would be the following Tuesday, or at any other time chosen by the committee. But at that particular time, the individual they require for that would not be available, and that would be the one best able to address the concerns of the committee.

They would prefer to deal with both issues at the same time, but at the committee's insistence, if it exists, they would be prepared to come to deal with the Pont de Québec this Thursday.

[Translation]

Ms. Caroline St-Hilaire: I do not understand what you are trying to say, Mr. Chairman. We have to deal with the issue regarding the Quebec City Bridge. A motion was passed on this. The person who can talk to us about this—which is of interest to the Bloc Québécois for the moment—always has a very important meeting or something else very important to do. I understand that they have other things to do besides appearing before the committee, but there are some important matters, such as security, and, of course, the bridge in Quebec City. You say that the person who could talk to us about the Quebec City Bridge has a more important meeting than this one. Did I understand you correctly?

[English]

The Vice-Chair (Mr. Jim Gouk): The person who would deal with the Pont de Québec is available and is prepared to come on Thursday, if the committee so wishes. The person who deals with rail safety, who would deal with the safety issues, is tied up with a meeting in Alberta, but could come the following meeting.

[Translation]

Ms. Caroline St-Hilaire: In that case, Mr. Chairman, let us have two meetings, so we can talk about the Quebec City Bridge on Thursday. Once the individual who can talk to us about security is ready, whether that is on Thursday, later next week or whenever, when this person has a little more time, he will come in to speak to us. However, if the individual who can discuss the bridge in Quebec City is available, I would like to hear from that person on Thursday morning. We have been waiting a long time.

[English]

Hon. Charles Hubbard: Mr. Chair, I have some difficulty spending so much time with CN. Safety has been a major concern in western Canada, and I know that many people have brought this issue up. I would suggest that we designate Tuesday, a week from today, as the time to have CN come here to deal with both issues.

The Vice-Chair (Mr. Jim Gouk): If that is the pleasure of the committee, we can do it. But I would advise you that at this time we have invited and got agreement for Air Canada and the Air Canada Pilots Association to appear before us on Tuesday, relative to Bill C-47. Nothing says we can't notify them that we've changed our minds, but this is the schedule.

I would be negligent if I didn't point out that it is almost a certainty that we will not be meeting past this Thursday. Anything can happen, I realize, but we should also approach this with our eyes open and a measure of realism.

The reality is that there are two choices: theoretically, the government could accept the NDP motion passed last night and they could prorogue the House, in which case we don't meet; or we are going to have a non-confidence motion brought forward on Thursday that will be voted on on Monday night.

So we can still act as if we don't know until it happens and we can schedule, but as it stands now we are scheduled to deal with Bill C-47 on Tuesday, unless the committee wishes to change its agenda.

Mr. Bonin.

•(1055)

Mr. Raymond Bonin: Mr. Chair, I can come back, because my point is not on this issue.

The Vice-Chair (Mr. Jim Gouk): Okay. Perhaps you could hold on for a minute.

We'll go to Madame St-Hilaire.

[*Translation*]

Ms. Caroline St-Hilaire: The secretary may not have been here at the time, but we passed a motion stating that representatives from CN will come here to discuss the bridge in Quebec City. The Minister of Transport told us that he was in negotiations and that there were some problems at the moment. I think the committee must ask the CN representatives some questions about the bridge in Quebec City. We decided that this would be a priority last spring. These people were supposed to come in on Thursday, but since the topic has been broadened to include safety, they can no longer come. I maintain that one of the representatives must come on Thursday morning to talk to us about the Quebec City Bridge so that we can ask some questions. Subsequently, if there is time left over and the committee agrees, we could talk about other matters. However, we made this a priority last spring, and I hope the secretary will uphold this decision and respect the will of the committee.

[*English*]

Hon. Charles Hubbard: Certainly, Mr. Chair, we always respect the committee, which is the master of its own destiny.

I think in terms of CN, I am a little taken aback that one person represents all of safety within CN. They certainly must have others. If Thursday is to be the day, I think we should deal with both issues and we should inform them that we would expect somebody to be here on Thursday to deal with that issue.

The Vice-Chair (Mr. Jim Gouk): CN has indicated that they can certainly have somebody come and talk about it, but the person best able to answer it.... It's the same as with the department: there are all kinds of people in departments who are familiar with the various aspects of a particular bill, but there is one person usually who can answer very specific questions, who has the authority to give those kinds of answers.

Again, it's up to the will of the committee, but if they want the most appropriate and direct answers from the person who is both knowledgeable and authorized to give those answers, then we need specific individuals designated by CN.

They have indicated they are willing to come from Tuesday onward, just not the specific day.

Hon. Charles Hubbard: On your point, though, Mr. Chair, that Tuesday will not exist, I think that safety is as important as whatever might be. If you say we won't be here, then we should hear from them before we leave. I would think somebody should come to discuss the issue.

The Vice-Chair (Mr. Jim Gouk): Okay, then it's up to the committee. We don't have anything scheduled for Thursday at this point. CN has indicated that they can have officials here to deal with le Pont de Québec. Is it the will of the committee to instruct CN to also be prepared to deal with questions on safety at that time?

Some hon. members: Agreed.

The Vice-Chair (Mr. Jim Gouk): Okay, we'll have the clerk set up an appointment with CN for Thursday morning and tell them they should be prepared to answer questions on safety as well as deal with the Pont de Québec.

Anything further?

Mr. Bonin.

Mr. Raymond Bonin: Thank you, Mr. Chair.

I'd like the clerk to clear up for us the rules that we set for ourselves in the first meeting.

The chair, not yourself, tells me that to hear witnesses, we need a quorum of seven. We are clear that when we have witnesses and there are no votes, we do not need a quorum.

The Vice-Chair (Mr. Jim Gouk): That's correct.

Mr. Raymond Bonin: Thank you.

The Vice-Chair (Mr. Jim Gouk): Okay. We're adjourned.

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

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