



House of Commons  
CANADA

## **Standing Committee on Transport, Infrastructure and Communities**

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TRAN • NUMBER 037 • 2nd SESSION • 40th PARLIAMENT

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**EVIDENCE**

**Wednesday, November 18, 2009**

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**Chair**

**Mr. Merv Tweed**



## Standing Committee on Transport, Infrastructure and Communities

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• (1535)

[Translation]

**The Vice-Chair (Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ)):** Good afternoon, ladies and gentlemen.

Mr. Volpe indicated to me that he would be a few minutes late. I will therefore be taking the chair during these few minutes.

Mr. French and Mr. Prud'homme, you have 10 minutes to make a presentation. In theory, this 10-minute period is for both of your presentations, but we can be tolerant. Afterwards, each political party will have a first round of questions, seven minutes each and then, and there will be a second five-minute round. I will hand you the floor.

Having myself been mayor of a municipality in my former life, I will give Mr. French the floor first and Mr. Prud'homme second.

[English]

**Mr. Woodrow French (Mayor, Town of Conception Bay South):** *Merci. Bienvenue à tout le monde.*

Unfortunately, that's the extent of my French, but I want to thank you for the invitation to present to this committee today, especially seeing that I was the one who started all the fuss. Hopefully we'll come out with a good resolution.

I want to thank you for the opportunity to present to you and the committee concerning the Air Passengers' Bill of Rights. As you mentioned, my name is Woodrow French. I'm the mayor of the little town of Conception Bay South, which is just outside of St. John's in Newfoundland and Labrador. I would also like you to note that in my real life I'm a safety consultant, so I do occupational health and safety. My concern for safety is right up there.

I'd just like to say that I was a little disappointed in the amount of notice I got that I was appearing at the committee today. It's fortunate that I'm here on Federation of Canadian Municipalities business. I was on an aircraft yesterday afternoon at 5:30 to come up here, so I spent my morning preparing my notes. Hopefully I'll be able to get all my points in.

My quest for a bill of rights started in December of 2007, when I observed families and seniors distressed while waiting for air travel at St. John's International Airport at 1 a.m. on a cold wintry night. The terminal was full of people, and there were two airline employees working the counter, no announcements made, and no extra staff to give information. People told me they would not be able to get a flight until the following week at the earliest. Others had tickets and were told there were no seats available for them.

The people who were there were young families with small kids, and at one o'clock in the morning the kids were wired and running around. The families were there, completely distressed, not knowing what to do. I guess the saddest thing was to notice the seniors who were there in the airport, some of whom had come a long way from small communities, had shown up at the airport, had no hotel, didn't know whether to leave the airport or stay there, and there was absolutely nobody there to help them. A lot of them were told no one knew when they were going to get out.

As a member of the Federation of Canadian Municipalities and a mayor, I felt I had a platform to be able to bring the concerns of the flying public to a provincial and national level. To assist me, I got the backing of the members of municipalities in Newfoundland and Labrador, the Atlantic mayors caucus, and the Federation of Canadian Municipalities. It's not a local issue. It's not localized to Newfoundland and Labrador. This is an issue that affects Canadians regardless of where they live in Canada, be it northern Quebec, southern Ontario, or British Columbia; it doesn't matter.

I went to the media and I contacted members of the House of Assembly as well as my members of Parliament. Once the story got out provincially and nationally, the horror stories of air travel throughout Canada started to pour in. Lobbying by the groups I have mentioned struck a national chord, and ordinary Canadians told their stories of problems they had with airlines, both Canadian and foreign.

I guess probably one of the saddest examples I can quote is one that happened here in Ottawa, our nation's capital. My fellow Canadians were kept on a Cubana Airlines aircraft for six hours, with no food, no water, toilets that were overflowing. I think it is horrible to have this occur in the nation's capital, with nobody at the airport with enough guts to say, "Bring that aircraft into the terminal and let these people off." I think that's what really started to get this thing going.

They spoke of overbooking, being bumped from flights, lost luggage, being held hostage on airport tarmacs by not being allowed to deplane, and rude treatment by the airlines. They went to their members of Parliament, whom they elected, for help in correcting the problems they were encountering while travelling on airlines in Canada and to other countries. I myself have travelled in Canada's north and have encountered situations where flights were cancelled without warning. Even staff in the isolated community were not given any information as to if and when the aircraft would arrive. All they could tell you was, "Go back to your boarding house and wait, and when you get a call, get down here as fast as you possibly can."

•(1540)

I've been advocating for an airline passengers' bill of rights since 2007. I'm looking for legislation similar to the legislation currently in place in the European Union.

After all the negative publicity, MP Gerry Byrne, who I'm pleased to see here today, contacted me and asked if I would mind if he introduced a resolution asking fellow members of Parliament to support a bill of rights. I was ecstatic that I was making headway on the issue.

The resolution was passed, and Transport Canada proposed "Flight Rights Canada", a useless, toothless piece of garbage that only further infuriated the travelling public. It was just unbelievable that they would come out with this if they meant what they said about flight rights Canada being the end-all and be-all of what was required. After that, we got more complaints with regard to bumping and overselling of flights, and on and on it went.

Following this, I was contacted by MP Jim Maloway, who informed me that he was going to introduce a private member's bill in the House of Commons calling on the government to legislate a bill of rights. It would ensure that air travellers in Canada would be treated with courtesy and respect and would be adequately compensated for disruptions in their travel plans caused by decisions made by the airlines. The bill was passed unanimously and now sits with you in this committee for action.

Members of the committee, Canadians are not asking for anything other than to be treated fairly by air carriers. We're not asking pilots to put passengers and aircraft in jeopardy. That would be unconscionable. All we're asking is to be treated fairly and to be adequately compensated. To do this is just a really good business practice. We pay our hard-earned dollars for tickets, sometimes well in advance of our flight dates, not knowing whether the services will be delivered to us as we contracted them. I think of those Canadians who have gone to the airport with their families to go on a holiday only to be told that the aircraft was oversold and they aren't going. To me, that's not acceptable.

In the EU, Canadian airlines that do business there are familiar with this legislation. For those airlines that cry out that they'll be hurt and will be put out of business and so on, not one Canadian airline has gone out of business; I've contacted people in the EU, and they've told me that the only airlines that have ever gone out of business were airlines that were on shaky ground even before the legislation came in.

If I buy a ticket in London and I want to come to Canada, I am protected by the EU bill of rights. If I'm not treated fairly by a Canadian airline, then the Canadian airline must compensate me for that. I've heard airlines in Canada and the association come out and say that it's going to put undue stress on them. Well, they haven't been stressed yet, and they're still flying to Europe. I haven't heard any of them come out and say that they aren't going to fly there anymore because of the legislation.

I would be remiss if I didn't comment on the articles in yesterday's media wherein it was reported that senior bureaucrats and the Minister of Transport were lobbying the airlines to oppose any efforts that would see this legislation pass. To me this indicates that

these senior officials not only have no respect for their minister but have no respect for the wishes of the Canadian public.

A quote by Mr. Fitzgerald said that European rights focus on denied boarding, cancelled flights, and delays "in an industry known for regularly overbooking passengers, cancelling undersold flight and making refunds difficult".

Isn't this what we're talking about in Canada? It's the same thing.

Obviously, Transport Canada officials are too close to the industry they regulate. This doesn't give me, or any other Canadian, a warm cuddly feeling that these people are going to come in and make anything voluntary stick. Nobody is going to be held accountable. If I and my business don't deliver services that I contract to deliver, then I'm chastised for that and I'm held to account for it.

•(1545)

The airlines have stated their opposition to the legislation, and have said, you know, maybe French has a point when he talks about this airline passengers' bill of rights. Boy, maybe he has something that we really didn't think about. So we're going to come out now and—

**The Vice-Chair (Hon. Joseph Volpe (Eglinton—Lawrence, Lib.)):** Mr. French, excuse me, I'm going to have to ask you to wrap up.

**Mr. Woodrow French:** No problem.

**The Vice-Chair (Hon. Joseph Volpe):** Thanks.

**Mr. Woodrow French:** To conclude, I long for the days when air travellers were treated fairly. I remember being fog-delayed, and when we arrived at our alternate airport, hotels were booked, buses were waiting, and information was available on rescheduling. We were gotten to our destination as quickly as possible.

Members of the committee, I urge you to recommend this legislation. Listen to the Canadian public and support it with all the power you have. You will be doing a justice to every Canadian who elected you and who has to use air transportation to get to all parts of our great country.

Thank you very much.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. French.

Let me apologize for having come here late.

I gather that somebody has already introduced Monsieur Marco Prud'homme, president and general manager of Quebec Air Transportation Association.

[*Translation*]

Mr. Prud'homme, you have 10 minutes.

**Mr. Marco Prud'homme (President and General Manager, Quebec Air Transportation Association):** Thank you very much.

We would like to thank the committee for giving us the opportunity to present our concerns and recommendations regarding Bill C-310.

The AQTA is a non-profit organization working for the development of the Quebec air transportation industry. We represent all industry stakeholders, airline companies, airports, schools, maintenance and service companies.

Upon reviewing the bill, our association wonders what justifies such an initiative. After consulting the Canadian Transportation Agency, we learned that the number of new complaints regarding air transport services has decreased since 2005.

In 2005, there were 1,337 new complaints and, as you can see, this figure has decreased from year to year. For the period 2008-2009, there were 901 new complaints. It should be noted that not only has the number of complaints dropped, but according to Statistics Canada, the number of domestic flights has increased since 2003. The percentage of complaints versus the total number of passengers has also gone down.

Aside from peoples' perception, the reality in terms of air transportation services is statistically well documented in Canada. With respect to the percentage of complaints, I believe this ratio would be appreciated by a number of industries. Moreover, I believe our air transportation system is adequate, even though there is always room for improvement.

Our analysis has revealed that this bill does not reflect a negative industry trend. Our research has also revealed that according to the Canadian Transportation Agency's report for the period of 2008-2009, only 9% of those complaints applied to small- to mid-size carriers. It is therefore surprising that the bill does not make any distinction between various categories of carriers.

Article 21 of the bill refers to the Canadian Transportation Agency, however, it seems to give it only a purely administrative role. It is however a fact that if there is a real need in the field, the agency, according to its mission, vision and values, must respond to the concerns of Canadians and put forward a code of practice regarding transport conditions to solve the issue.

Furthermore, we believe that the bill does not address a number of issues. Does this bill cover the complex nature of air operations? How will this bill financially impact carriers? What will be the impact on remote routes? Will it lead to fair increases for passengers?

Air Inuit is a native-operated carrier that has been active in Quebec for several years. One of the company executives has provided us with the following example. On the Salluit-Montreal route, the distance is 1,864 kms; the aircraft would be a 45-seat Dash-8, and in case of cancellation the penalty would be \$36,000 per flight for 45 passengers, or \$800 per passenger. In the case of a five-hour delay, a penalty of \$22,500 per flight would have to be paid. The carrier has mentioned that its rate, as submitted to the Canadian Transportation Agency, already includes measures in the case of cancellations, delays and denied boardings.

Adversely, this bill would lead to a degradation of services and create hardship for a number of regional carriers. This is also true for carriers providing service to northern Quebec, the Maritimes, the Magdalen Islands. Please review the letter from Air Inuit outlining this issue.

Could we improve on this bill? Some stakeholders would like to change its spirit as well as the content of the bill, while others would like to add exceptions and specifics. We do not believe that a bill with such a simplistic view of our industry can solve a systemic problem, because this bill does not take into account the numerous key players influencing the system, the complex nature of air operations, or our geographic reality.

The right question we need to ask ourselves is the following. Which tool available in Canada would be the most suitable to address the concerns that have prompted the creation of such a bill? In our opinion, that tool is the Canadian Transportation Agency. The agency is composed of a team of qualified, experienced and knowledgeable individuals, and above all, it is independent. It is not influenced by private or political interests in its actions regarding those issues.

These are our recommendations. Carriers should not be the only ones bearing the financial burden when they operate within an environment that includes a number of stakeholders and variables. It is difficult to prove beyond reasonable doubt what may have caused a delay, something which unfortunately can be a byproduct of our network's operations.

• (1550)

The concerns that are at the root of this initiative could be validated and analyzed by the Canadian Transportation Agency in view of finding viable solutions that effectively meet real needs.

In the interest of our air transport network and that of the Canadian public, we recommend that this committee reject this bill because it is unjustified, inappropriate and inapplicable.

Thank you.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. Prud'homme.

We will now proceed with questions.

Mr. Byrne, you have the floor.

[English]

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** Thank you, Mr. Chair, and my thanks to both of our witnesses appearing before us today.

Mr. Prud'homme, your justification for not needing consumer protection legislation for airline passengers appears to be based on the diminishing number of complaints put before the airline ombudsman. You seem to regard this as a clear indication that this is not justified.

Do you think that some of this may be because the office of the airline ombudsman had its powers dramatically changed around 2005, and because 2008, which was the year complaints were lowest, was also the year that "Flight Rights Canada" was introduced?

“Flight Rights Canada” was supposed to be the catch-all policy to prevent and to arbitrate consumer complaints in the airline industry. But we've come to learn through documents presented to members of Parliament, and through CanWest News Service's Sarah Schmidt, that “Flight Rights Canada” has an entire budget of \$15,000 to publicize this initiative. Canadians don't even know what their rights are.

Does that affect the number of complaints, in your opinion?

• (1555)

[*Translation*]

**Mr. Marco Prud'homme:** Unfortunately, I don't have an answer to your question. I would note that the number of complaints drops from year to year. I think that there are still ways of improving services. We are of the view that it should be done by the Canadian Transportation Agency.

[*English*]

**Hon. Gerry Byrne:** That would be very helpful. It would be extremely helpful to the CTA, which is not actively engaged in arbitrating consumer complaints.

I want to move now to Mr. French.

Woody, I remember your being extremely vocal and very proud that the Government of Canada, the Conservative Party and its members, embraced my motion, M-465, calling on the government to bring forward binding, robust, enhanced consumer protection for airline passengers. I said that this legislation should be modelled on U.S. legislation before the Congress and as well on legislation passed by the Parliament of the European Union. This European legislation is currently in force for every flight—including Air Canada, WestJet, and Air Transat—that enters the European Union's air space and lands at European aerodromes.

In the last 48 hours, we learned that your enthusiasm for the government's support for my motion was, quite frankly, very insincere. We learned that the former Minister of Transport, Lawrence Cannon, while he was professing to support the motion, was actively engaging lobbyists to undermine, to thwart, that very effort.

Mr. French, just turn around for a second and look around you. Do you see most of those people there? Some are journalists, some are from the Department of Transport, but a lot of them are lobbyists. They're here to make sure that what you and I and others set out to do—protect airline passengers—doesn't happen.

How does that make you feel when you consider that you put this forward as an idea, joined by many people? You have the Federation of Canadian Municipalities on board. You have parliamentarians on board. You have a number of different consumer groups actively engaged in this.

The Minister of Transport, himself, e-mailed lobbyists telling them he was going to pretend to support this, but asking them to do everything in their power, making use of the airlines' resources, to ensure that this gets killed. And yet the minister voted for it anyway. Apparently he voted for bad public policy.

And now airline companies are coming to us and asking us not to vote for a bad public policy.

What would happen if we simply followed the minister's own lead?

**The Vice-Chair (Hon. Joseph Volpe):** I'm going to have to give Mr. French a minute and a half to respond.

**Mr. Woodrow French:** Well; I'm impressed.

All I'm asking for and all we've asked for is fair and equitable treatment. It was supported by everybody in the House of Commons. It certainly would disappoint not only me but every other Canadian who's had a problem and not been adequately compensated for that problem.

I think big money talks. Obviously, somebody must be making a buck to be able to employ lobbyists. I can't, and I don't think any other Canadian can. I hope the members of Parliament on all sides of the House can sit down and look at what's needed and deal with that the best way they can, and I think that's being fair to the travelling public.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. French.

Thank you, Mr. Byrne.

Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** Thank you very much, Mr. Volpe.

Usually I ask questions but today I will make a comment, because during debate it is probably our party, the Bloc Québécois, which will make the difference and will vote against this bill. I'll explain why.

How can a political party say yes to a bill at first reading and change its mind when the bill is referred to a committee? One of the Bloc Québécois' goals was, as you mentioned earlier, Mr. French, to address the Air Cubana issue as a large number of passengers on the plane were Quebecers. Several were from my riding. The stated purpose of this bill was to deal with the Air Cubana case. This bill will not deal with the Air Cubana case because it has never been proven that the airline was responsible. The airport authority had its share of responsibility.

My goal is for the various parties responsible for delays to pay for the problem they caused. That is not what this bill does. The problem with private members' bills is that we cannot amend them. I will table amendments. I had them checked by the law clerk of the House of Commons, but they will not be in order because this is a private member's bill.

To deal with the Air Cubana situation, to address a number of the situations you referred to, Mr. French, we would need a government bill and we would have to be sitting around the same table as NAV CANADA, CATSA, the airport authorities and the Canada Border Services Agency, because they all contribute to the problem in several situations.

Obviously, the airline company shares some responsibility, I am prepared to have the airlines pay for the problems they caused, but I would not want to have the airline paying for a problem others have caused.

When a bill provides that any delay is the airline company's responsibility, inevitably airlines would be paying for errors they did not commit in a number of cases. That is the problem with this bill, we cannot do what we want with a private member's bill.

I'd like to hear what you have to say about this, Mr. French, and Mr. Prud'homme afterwards.

• (1600)

[English]

**The Vice-Chair (Hon. Joseph Volpe):** Who wants to begin?

Mr. Prud'homme, and then we'll go to Mr. French.

[Translation]

**Mr. Marco Prud'homme:** Thank you for the question.

In fact, we feel that the complexity of the air transportation system has not been taken into consideration. Airlines are being accused when, although on occasion there are operational problems, they are often problems related to ground equipment, de-icing facilities, airports, gates, etc. There are many parties involved. Sometimes, a flight plan might not have been received by NAV CANADA, or might be misplaced. There can be many reasons for delays. Putting everything in the same basket and on the back of the airlines is unfair and unjustified in our opinion.

[English]

**The Vice-Chair (Hon. Joseph Volpe):** Mr. French.

**Mr. Woodrow French:** Thank you very much.

One of the things that I always say is that when you point the finger at somebody, remember where the other three point. I think you're right on. I believe that everybody has to take responsibility for their actions. I believe that when something is done and it's not done right, then somebody has to be held accountable. If you have people who are sitting in a government office asking airlines to come out and oppose this bill, then I think that's unacceptable. If it was in my town, I would have to pay the ultimate price for that. I have to be accountable to my residents, and people who are elected to the House of Parliament have to be accountable to their constituents as well, and hopefully everybody is. In that case, when you have people on all sides of the House who have come out and supported this legislation and then you have something like this go on, I think the Canadian public is confused. I don't think they know who to trust anymore.

It's not going to put anybody out of business. It hasn't put anybody out of business yet.

[Translation]

**Mr. Mario Laframboise:** I understand, Mr. French, except that I am not being influenced by lobbyists. I am telling you this in all sincerity because the Bloc Québécois has done its homework.

The problem is that a bill like this, that would result in the airlines being the only ones held responsible, could endanger various routes, to the Magdalen Islands, Northern Quebec and the Gaspé. Of course,

we believe on our side that we cannot allow services to be jeopardized. Mr. Mayor, I am certain that if the consequence was to abolish a route from your municipality, you would be angry. This could happen with this bill because, ultimately—Mr. Prud'homme mentioned it a little earlier—small airlines are held responsible to the same extent as large airlines, so there has really been no in-depth debate. This idea is interesting: any passenger who experiences a delay should be compensated. The problem on the ground is that this could result in routes being cut to remote regions. However, I cannot agree with that, and the lobbyists will not be the ones to change my mind. I am aware of the consequences that this could have. When Air Inuit said, in a letter, that this might endanger some of its routes, that concerns me. The lobbyists are not the ones saying it; Air Inuit is saying that this could result in some routes being cancelled.

Would you be in agreement with this bill if it were to lead to the closure of various routes?

• (1605)

[English]

**The Vice-Chair (Hon. Joseph Volpe):** Mr. French, you have exactly 63 seconds.

**Mr. Woodrow French:** Okay.

That's a loaded question. I believe the airlines, regardless of whether they're big or small, are not a charitable organization. They're not in this to lose money. They're in it to make money. If they're not, they're not good business people. If you have a piece of equipment and the piece of equipment breaks down, then have a spare part to fix it. It can probably be fixed, but if not, have another aircraft available.

I don't think anybody wants to put anybody out of business. That's certainly not my case. Maybe in this case, one size doesn't fit all.

Having said that, I don't care if I'm in Maine or if I'm at St. John's International Airport or Montreal airport, and I don't care who's flying me. But if I buy a ticket that says you have to get me from point A to point B, then I think that you, being the airline, have to have sufficient equipment, in good shape, or be willing to make an alternative arrangement for me.

I haven't seen anybody go out of business yet.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. French. I have to stop you here.

I have to go to Mr. Maloway.

**Mr. Jim Maloway (Elmwood—Transcona, NDP):** Thank you, Mr. Chairman.

Mr. Prud'homme, have you read this bill?

**Mr. Marco Prud'homme:** Yes, I have.

**Mr. Jim Maloway:** I would like to make reference to what you suggested earlier—that is, in the event of a cancellation of the airplane, you would be put at a big disadvantage.

I want to point out to you that if the airline informs the passengers at least two weeks before departure, it would pay nothing. If the passenger accepts in writing a rerouting because the flight has been cancelled, you pay nothing.

Subparagraph 4(1)(iii) says that if the air carrier “can prove that the cancellation was caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken”, you would pay nothing. And that is the wording in the European Union bill.

Some of the airlines have asked us to look at defining “extraordinary circumstances”, because they want to see some definitions. Only 8 of 16 airlines in Europe have actually defined “extraordinary circumstances”. We can bring those in through amendments.

As a matter of fact, the KLM amendment, which the broadest of all the airlines, I believe would deal point for point with the concerns that my honourable colleague Mr. Laframboise has just mentioned. It is extremely broad.

As a matter of fact, consumers groups feel that the airlines have too big a loophole here, that they're being given too many exemptions. We feel that the bill has to be fair, and the European bill is fair because it has survived two court challenges. If we make this bill too restrictive, those lobbyists, those highly paid lawyers out there, will take it to court and they will win. By leaving things general as they have in Europe—“under extraordinary circumstances”—it's flexible enough, at least in the opinion of the review committee that has been working over there.

But I'm prepared, certainly, to introduce amendments. We have enough amendments between the three parties here to bring in different versions of an exclusion that would be tantamount to what we see in Europe.

Do you think that would be an agreeable settlement?

**The Vice-Chair (Hon. Joseph Volpe):** Before you answer, Monsieur Prud'homme, I know that several of the questioners have referred to some of the people at the back as high-priced lawyers and lobbyists. Maybe there might be a few over there, but I just don't want any of them who are not to think that they are being somehow denigrated: I think the intention is to insult everybody.

**Voices:** Oh, oh!

**The Vice-Chair (Hon. Joseph Volpe):** I kid you. You're all welcome here as spectators and as participants, so please don't take offence at that reference. I'm sure not everybody fits that description. Everybody is a stakeholder, and all stakeholders have a right to make a presentation or to witness a presentation.

That said, Monsieur Prud'homme, you're at the microphone.

• (1610)

[*Translation*]

**Mr. Marco Prud'homme:** Thank you very much for your question.

I think we need to sort things out here. First, there are different types of carriers. Small and medium-sized carriers don't have the resources that the bigger airlines do. In light of that, on September 11, 2001, we had evidence of their financial health: their operations were frozen for only two or three days, and a number of those companies almost had to close their doors.

So, small carriers have thin liquidity, and I don't think that they will be able to pay the amounts set out in your bill. I understand the intent; I think that it is an interesting proposal but I don't believe that the small and the medium-sized carriers would be able to comply with such regulations.

[*English*]

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Maloway.

**Mr. Jim Maloway:** Thank you, Mr. Chairman.

I don't believe I received an answer to the question. It seemed to me fairly clear that if there are extraordinary circumstances, deemed to be extraordinary by the airline, they will be exempt from paying compensation for cancelled or denied boarding. There are huge loopholes here for the airlines. I don't know how much further we could possibly go.

In terms of your other comment about how much it will cost the airlines, let me tell you that we have tried to find out. We've tried to find out from Air Canada, and we can't find out how much they pay in Europe. They've been paying in Europe since 1991 for denied boarding, and then five years ago the European legislation was expanded to include cancelled flights and chartered flights and the compensation was doubled. I'm not aware of any reduction in service or any withdrawal of service by Air Canada from the European market.

When we ask them repeatedly how much they've actually been paying on a monthly or yearly basis for compensation since 1991—those figures must be available—they won't tell us. Why would that be?

[*Translation*]

**Mr. Marco Prud'homme:** Mr. Maloway, it's important to note that our association represents many small and medium-sized carriers. With regard to the economic situation or financial health of Air Canada, I am unfortunately not in a position to respond.

However, I can tell you that carriers in Quebec are quite concerned by this bill. A more serious assessment of the potential impact on carriers must be done. In fact, if no one can assess the amount... that question must be answered before we move forward.

[*English*]

**The Vice-Chair (Hon. Joseph Volpe):** You have one minute left, Mr. Maloway.

**Mr. Jim Maloway:** Thank you.

To follow up with that line of questioning, I want to speculate with you as to why you think they wouldn't want to give that information out. Certainly it's available. You would think they'd be proud that they serviced their customers well and that they have paid out \$20,000 or \$30,000 for denied boarding or cancellations. Yet we can get nothing from them.

[*Translation*]

**Mr. Marco Prud'homme:** Mr. Maloway, having recently finished my studies in the field of aviation, I know and I would like to inform you that airlines are not even able to determine the profit they make on a given route. Consequently, it would be rather difficult to determine the impact of that figure. The network is extremely complex.



Since we are not able to generate or to identify the profit that is being made on a given route, I am not at all surprised that they are having difficulty answering your question.

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Prud'homme, that will be it.

Mr. Mayes.

[*English*]

**Mr. Colin Mayes (Okanagan—Shuswap, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses for being here today.

I take a lot of flights. I'm a member from British Columbia. I fly about 120 flights a year, and in the last four years it has been close to 400. I haven't experienced any of the things that Mr. French has spoken about. I had one flight cancellation. It was rerouted and I was only two hours late coming back to Ottawa. I gave my seat up once. The flight was overbooked. It was an emergency situation, and a family needed an extra seat.

My question, Mr. French, is what is a reasonable expectation of a passenger? We're talking about weather. We're talking about things that are out of the hands of airlines. It could be the airport itself, or the weather; it could even be Canadian Border Services Agency having a problem with a passenger and they want the flight delayed for a certain period of time.

I think we support rights for passengers, but we have to have reasonable expectations. My feeling about this bill is not necessarily the intent of the bill but its...

I think it's a bad bill. They've penalized the airline rather than looking at the big picture and what is a reasonable expectation of a passenger.

Mr. French, could you maybe speak to that?

• (1615)

**Mr. Woodrow French:** Mr. Volpe, before I start my comments, I'd like to inform you that I have a hearing problem. I have a hearing aid in my left ear, and I don't have one in my right ear. This thing here is probably the most useless thing I've ever worn with regard to trying to understand a question.

Mr. Laframboise might have asked me a good question, and I answered what I thought I heard. I just wanted to point that out to you. I'm sorry if I didn't get it right.

Maybe you could get some better headsets. I know the FCM uses the padded, round ones.

Even when Mr. Prud'homme was speaking and somebody was talking, I couldn't hear anything. I just wanted to point that out to you.

To get back to your question—

**The Vice-Chair (Hon. Joseph Volpe):** Mr. French, I'll take that up for a subsequent meeting. I don't think I can make an adjustment right now.

**Mr. Woodrow French:** Oh, I know that.

**The Vice-Chair (Hon. Joseph Volpe):** Let's go back to your answer to Mr. Mayes.

**Mr. Woodrow French:** What would be a reasonable expectation? Now, if I went in to buy a pair of shoes, I'd reasonably expect a good pair of shoes and I'd expect if there is something wrong with them that the person who sold them to me would fix it.

It's the same with airline travel. If I contract with an airline to get me from point A to point B, I want them to get me from point A to point B courteously, respectfully, and hopefully on time. When you talk about weather and stuff like that—I disagree with you that it's a bad bill—I come from a part of Canada that probably has some of the worst weather that you wouldn't believe, and I'm sure northern B. C. is the same. I've flown out of St. John's airport when I couldn't see the tip of the wing. So I'm used to that. But I think the reasonable expectation that the people of Canada want is that they want to be treated fairly. They're paying good dollars, and I think that they want to get good service for that. I think that's what they reasonably expect.

So for a family of four that is not going.... I believe that you're one of the lucky ones, that you haven't experienced this with all the travel you've done. I know I've done stuff and I didn't get the same thing. I was told when there was a flight cancelled to go down with 2,000 other people at Pearson airport to try to use two white phones. That's not service. I don't think the people of Canada expect that.

You've heard all the same stories that I heard on the radio in the last couple of years, horror stories in the spring, in the summer, in the fall, and in the winter. So they're out there, and I think that the people of Canada expect something reasonable. They certainly expect no less than the people in the EU or the people in the United States would expect. That's all, and as Mr. Maloway said, I haven't heard of anybody who has gone out of business giving good service.

**Mr. Colin Mayes:** But the shoe salesman doesn't have to rely on the weather for you to buy shoes.

**Mr. Woodrow French:** You never know. They can't get to work some days, you know.

**Mr. Colin Mayes:** Well, I think it's not necessarily a good comparison.

Mr. Prud'homme, a bill has to function and be defensible, and one of the issues I have is that every time you don't meet the expectations, there's a penalty. One of the issues I have is that it tells us in the bill that if you were delayed on the tarmac for an hour, that if a passenger wants to go back to the terminal and get off the plane, they can request that.

How is that going to work when you have a planeload of people and two people want to go back to the terminal and 60 others want to sit on the plane and wait so they don't get out of line and take off? How would you determine that? Do you have a show of hands? Would it be up to the captain? How would that work?

• (1620)

[*Translation*]

**Mr. Marco Prud'homme:** In answer to your question, let me say that this is one of the technical points that make people smile. I do not think that it would be possible to do such a thing.

First of all, in terms of security, I do not know what kind of system would have to be put in place in various airports to guarantee the security of people who decide to deplane from an aircraft. This means we would also have to remove the luggage of these passengers. Would the time required to do this be the responsibility of the carrier? Would the carrier also have to pay for this delay?

The intention behind this bill was laudable. Unfortunately, there were flaws in the writing or the wording of the legislation. That is why these intentions should be referred to the appropriate agency in order to come up with solutions that would be more viable.

[English]

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Mayes, you have about another 55 seconds.

**Mr. Colin Mayes:** Thank you, Mr. Chair.

Could you see, for instance, if an airplane was on the tarmac and wanted to take off and the tower said it couldn't take off because there are issues, that there could be court challenges by the airlines to the airport because the tower won't let them take off and they're jeopardizing their schedule?

What I see is a lot of court challenges both by passengers and by the airlines. And we've heard that there is a passenger bill of rights in Europe but there is a lot of litigation. From your research, is that true?

[Translation]

**Mr. Marco Prud'homme:** Although some airlines do have a legal department, I believe that most carriers in Canada do not have a full-time lawyer or a legal department. So this bill opens up a Pandora's box and we do not really know what impact it would have on small carriers, especially in Quebec, where we do have many concerns and questions about this.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. Prud'homme.

[English]

Colleagues, we're going to have to leave here at 5:30. In the interest of giving everybody an opportunity, I think in this round, with your consent, I'll limit it to four minutes so I can get in at least two questions instead of the usual five.

Okay? Thank you.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal (Newton—North Delta, Lib.):** Thank you, Mr. Chair.

Thank you, panel members.

My questions are for Mr. Prud'homme.

You say that we should reject this bill outright. Don't you believe that Canadian passengers should have rights when they don't get service from the carriers?

[Translation]

**Mr. Marco Prud'homme:** I believe that passengers' rights are already covered in the rates that are tabled with the Canadian Transportation Agency and that if there is a willingness among the

public to improve on these conditions, the agency is in a better position to do so. They have already been doing this for many years and the system is working. So, why should we try to reinvent the wheel? In my view, it would be better to reject this bill.

[English]

**Mr. Sukh Dhaliwal:** Do you believe and support that these tariffs, or whatever you call them—I would call it the rights of the passengers—should be legislated?

[Translation]

**Mr. Marco Prud'homme:** Could you repeat your question, please?

[English]

**Mr. Sukh Dhaliwal:** Do you think we should have legislation to cover those passengers under the tariffs you are talking about?

[Translation]

**Mr. Marco Prud'homme:** I believe that the rates already include several clauses dealing with delays and the loss of luggage. If there is a new clause to be added on the subject of delays on an access ramp, as was the case in the Air Cubana episode, I do not see what would prevent us from doing so already.

[English]

**Mr. Sukh Dhaliwal:** It could have been done. The way I see the airlines coming in now is that....

Mr. Byrne and Mr. Maloway brought forward their private member's bills and private motions. Then the airlines chipped in to bring in the new tariffs and whatnot. But they have not yet been implemented here. So why don't you suggest what we should do with the bill, what improvements we should make so it is balanced—on one side, the airlines and their rights, and on the other side, the passengers' rights?

• (1625)

[Translation]

**Mr. Marco Prud'homme:** My answer to this is that if there was a significant need in this area, the Canadian Transportation Agency would have contacted the carriers and would have made recommendations to us.

I have personally worked for an air carrier for 10 years and I have seen over the years an improvement in the services offered to passengers who have accessibility problems. We have been faced with new standards, new requirements and we have put in place some measures in order to help individuals who have difficulties in this regard. So I fail to see why this tool could not be used in order to solve different problems.

[English]

**The Vice-Chair (Hon. Joseph Volpe):** You have 30 seconds, question and response.

**Mr. Sukh Dhaliwal:** How many airports in Quebec do you think will be unable to meet the requirements of Bill C-310?

**Mr. Marco Prud'homme:** How many airlines or how many airports?

**Mr. Sukh Dhaliwal:** Airlines.

[Translation]

**Mr. Marco Prud'homme:** There are not many airlines in Quebec. However, there are many small carriers that serve remote areas. Someone jokingly told me recently that if he was required to comply with a schedule, it would be a daily schedule; in other words, the airplane would take off when ready.

I believe that in Quebec, there are some twenty companies that could not comply with such a bill.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you very much.

Mr. Jean will share his time with Mr. Watson.

[English]

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** *Merci beaucoup.*

Mr. French, I fly a lot as well. I'm actually the member of Parliament from Fort McMurray. With respect, I think I actually represent more Newfoundlanders than you do—

**Voices:** Oh, oh!

**Mr. Brian Jean:** —some 30,000, approximately. That's why I'm so adamant about this bill. I don't agree with this bill. I don't agree with it in its present form and, quite frankly, I don't believe it can be amended appropriately to give it any real clout that won't cause, in essence, more disruption to my Newfoundland constituents than to anybody else in Canada.

I really believe that, and I'll tell you why. First of all, what you've referred to is weather. You referred to being stuck in the airport, and I know it was weather-related. If it was during the holidays, then my research proves that it was weather. The delays were weather. You've talked about weather, and I understand why you'd bring up weather.

You referred to the European bill of rights. Paris and London, two of the busiest airports in Europe, have no snowfall. St. John's is actually the foggiest city in all of Canada; it gets fog 124 days a year. For Halifax it's 122 days. It is the snowiest, at 359 centimetres, next to Quebec City, which also will be greatly affected, at 343 centimetres. It is the wettest, with 1,514 millimetres of precipitation. It is the windiest, with an average speed of 24.3 kilometres per hour, and the cloudiest, with 1,494 hours of sunshine. It has more days of freezing rain and wet weather than any other city.

That is obviously a concern. I've heard from Newfoundlanders how this is a concern, but like Pavlov's dog—if you keep calling the dog and you hit it with a stick when it comes—the airlines are not going to have scheduled flights to these cities if they're continually punished as a result of weather, which seems to be the indication. Even if it's excluded, which I don't believe it can be under the current bill, there are going to be other difficulties.

That's my concern, sir. I have two direct return flights a day right now from St. John's to Fort McMurray, and it's very important to the people in my area because their livelihoods depend on it.

Quite frankly, sir, I believe this bill will shut down those flights and shut down many other flights to small communities, of which I represent about 37 in northern Alberta. I know Newfoundland has many as well. That is my concern.

With that, I'll turn it over to Mr. Watson.

**The Vice-Chair (Hon. Joseph Volpe):** So, Mr. Brian Jean, you've proven yet again that you got first star in sharing.

Mr. French, you're going to have to be very brief. I made an error earlier and I have to give one other colleague an opportunity.

**Mr. Woodrow French:** One of the things we're good at in Newfoundland and Labrador comes through the federal government, which years ago put in a good ILS system. That gets the airplanes in and out. We do have snowplows, and the roads and runways are cleared very quickly after a snowstorm.

Your constituents do fly in and out of St. John's, I agree, but some of them are complaining to me and to other people as well. The problem is this: you have weather, and after the weather's gone, you've got sunshine, and you get one Embraer or one 737 coming in and trying to take all these passengers out. It takes a week.

The airlines don't jump in and say they're going to put a Boeing 767 or 777 on to clear up the backlog. They would sit and leave your constituents and my residents in an airport, not knowing where to go, when to go, what to do, or anything like that.

I'm afraid, sir, I can't agree with you that this is going to hurt the airline business in Canada any more than it's already been hurt. What went on was cited in the *National Post* yesterday, and it's got nothing to do with weather; it's who's got the biggest bucks.

I think if we lose sight of that and we don't look after Canadians, it's wrong. I mean, if it works in Europe, then we're not good enough for it. That's the only thing I can take away from it: that Canadians are not good enough to be protected.

• (1630)

**The Vice-Chair (Hon. Joseph Volpe):** Colleagues, I made an error, as I indicated. I should have gone over to Mr. Jean-Yves Roy initially.

I'm going to do that now.

**Mr. Brian Jean:** Don't I have another four minutes? Do I get another one after—

**The Vice-Chair (Hon. Joseph Volpe):** You got your share as well, so....

Go ahead, Monsieur Roy.

[Translation]

**Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ):** Thank you, Mr. Chair.

My question is for Mr. Prud'homme. You talked earlier about the Magdalen Islands. In fact, in the Magdalen Islands, the airline serving that region was selling more seats than there were in the aircraft, and in the end, passengers regularly had to stay behind at the airport because it was the only means of transportation.

I agree with Mr. Laframboise that the bill does not make sense. However, that is not the issue.

I have been an MP for 10 years and I must tell you that I have given up on the idea of flying from Ottawa to Montreal and then on to Mont-Joli, etc.—the service has practically been eliminated in Mont-Joli—because there was a connecting flight in Montreal or in Quebec City and I was missing it on a regular basis. Personally, I have had a lot of problems dealing with airlines. In my region, in the Magdalen Islands, the transportation system was abysmal. However, we cannot blame the airports or NAV CANADA, but the carriers were responsible for what was happening in the Magdalen Islands. I am not talking about small and medium-sized companies. I understand there is a difference between your association and the companies involved.

Also, I understand your position on the bill, when you say that complaints have to be addressed to the transportation agency. If you ask the people in the Magdalen Islands where and to whom they can complain, they will not answer that they should go to the transportation agency, because they do not have any idea. So they complain first and foremost to the airlines or to the media.

I am looking at your statistics about new complaints. If there was a complaints clerk in the Magdalen Islands, your statistics would triple because people do not know where they can file their complaints. Of course, they will turn to the media, or to their member of Parliament. I am not talking about your members, but about large carriers. Personally, coming from that region, if I had wished to file some complaints, I would have filed perhaps one or two per month. Also, I have a lot of difficulty with your statistics. I am not in favour of the proposed bill and I know that it cannot be amended.

**Mr. Marco Prud'homme:** Mr. Roy—

**The Vice-Chair (Hon. Joseph Volpe):** You only have two minutes left for both of you. Mr. Roy obviously wanted to express his point of view and he has done so. I would ask you to please make a very brief comment.

**Mr. Marco Prud'homme:** Indeed, if people are complaining to the media, it is no surprise that the service is not improving. So the people should probably turn to the right persons. I have worked for a carrier and I know that the Magdalen Islands are one of the most difficult places to access in all of Quebec. That aspect must be underlined. Thank you very much.

[English]

**The Vice-Chair (Hon. Joseph Volpe):** Do you have a comment, Mr. French? Otherwise, we can stop there, no problem.

**Mr. Woodrow French:** I think I'm pretty well commented out, Mr. Volpe.

Thank you very much.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you.

I'm going to exercise my opportunity here as chair just to make a very brief comment.

Maybe you can respond, Monsieur Prud'homme, to a couple of things that I found worthy of note.

One, you mentioned that we can't get specific information regarding the operations of any airline because the operations and the routes are a little too complex. I'm wondering whether it's such a complex business that nobody understands how it goes. That's the first thing that crossed my mind.

Secondly, our researchers here have done something that all of our colleagues on both sides of the table have—namely, the Canadian Transportation Agency, while it administers airlines' domestic tariffs, doesn't really have a hammer to enforce any of the actions that might be solicited as a result of complaints.

I know you probably have a different view there, but maybe we'll raise that with some of your colleagues who come up next.

Those are just two reflections. I realize we're at the end of the time. I hope that's not too unfair, but I'd thought you'd want to see how somebody might react.

• (1635)

[Translation]

**Mr. Marco Prud'homme:** I should remind you that in North America, each and every minute of every day, some 5,000 or 6,000 trips are taking place in the air transport network as a whole. In each case, passengers must either board a connecting flight because the initial aircraft is going somewhere else, or board a flight from another airline altogether. So to try and determine the profit made on one section of a route is practically impossible. There are only estimates.

As for your second question, please forgive me, I've just forgotten it.

**The Vice-Chair (Hon. Joseph Volpe):** The question will be put to others. Thank you for being here.

**Mr. Marco Prud'homme:** Thank you very much.

[English]

**The Vice-Chair (Hon. Joseph Volpe):** We're going to take a one-minute break—while *you*, gentlemen, you'll go and become the lobbyists—and then we'll bring all the others back before us.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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**The Vice-Chair (Hon. Joseph Volpe):** I'm going to call the meeting to order. I said we would be a minute.

I want to welcome the representatives from the Air Transport Association of Canada. Mr. John McKenna is president and chief executive officer. He's accompanied by Madam Tracy Medve, who's a director on the board of directors.

As well, we will hear from the Consumers' Association of Canada, represented by Mr. Mel Fruitman.

Lady and gentlemen, thank you for joining us. You'll have, as you've seen, about ten minutes apiece. We're going to be called away at 5:30. We're going to end the committee meeting at that time. We were going to do some committee business, which we will put off until Monday so that we can give our witnesses an opportunity to get their messages across.

By the way, although there are two of you, it's still only ten minutes. You may wish to hand off the baton, so to speak; it doesn't matter.

Mr. McKenna, Ms. Medve—who's first?

Go ahead, Mr. McKenna.

**Mr. John McKenna (President and Chief Executive Officer, Air Transport Association of Canada):** I will make a statement, and Tracy, Mrs. Medve, will answer questions, or we'll share answers.

**The Vice-Chair (Hon. Joseph Volpe):** As you like. Members have a tendency to be independent-minded about to whom they will ask questions.

**Mr. John McKenna:** That's fine.

Good afternoon. My name is John McKenna and I'm the president of the Air Transport Association of Canada.

I'm accompanied today by members of our board of directors: Tracy Medve, president of Canadian North Airlines, and Mark Williams, president of Sunwing Airlines. Michael Skrobica, vice-president of industry monetary affairs at ATAC, is also here.

The Air Transport Association of Canada has represented Canada's commercial air transport industry for 75 years. We have approximately 185 members engaged in commercial aviation operating in every province in Canada and providing service to the vast majority of the more than 700 airports in the country.

Bill C-310, in the view of our members, could jeopardize safety, is highly punitive, and could cause unintended adverse consequences both for the industry and for consumers. We would like to focus on four specific elements of this bill that merit serious review. These concern threats to safety; unreasonable financial compensation to consumers; inapplicability in small, remote, or northern regions; and airlines becoming financially responsible for issues beyond their control.

Safety of passengers should be paramount. Accordingly, the Aeronautics Act and the Canada Transportation Act should be respected prior to any consumer rights legislation.

Currently, Canada enjoys one of the safest air transportation systems in the world. The cornerstone of the system is the Aeronautics Act. A key principle of the bill is that the pilot in command decides whether a flight is safe to complete. Bill C-310, under threat of monetary penalty, negatively influences the decision of the captain to undertake a flight.

The bill contemplates exempting airlines from penalties only if an airport has been closed. Airports almost never close and the airports are not currently permitted by regulations to determine whether a flight should depart or land. We believe this bill makes it appear that

the authority to make such a decision would be taken away from the captain.

A pilot will also consider the type of aircraft, its load, range of flight, weather conditions en route, its destination, and other considerations. With the decision of whether to depart left in the hands of a third party and penalties on a Boeing 737-200 as high as \$120,000, there is a likelihood that pilots would be enticed into risk taking. We're convinced that this is not the intent of the proposed legislation.

Another safety issue is tarmac delays. These delays occur in weather conditions, like snow and freezing rain, that necessitate de-icing of the aircraft. Because airports have installed glycol recovery pads for environmental reasons and there are only a limited number of spots, there is occasional congestion in the lineup to use these pads.

Given that the penalty for an hour's delay on a Boeing 737 could add up to \$50,000, there's a clear inducement in a marginal weather situation for a pilot to avoid the lineup. The lesson of the 1989 Dryden accident is that the de-icing must take place.

ATAC recommends that all penalties in Bill C-310 relating to events beyond the airlines' direct control, and all elements that could have potential safety ramifications, be eliminated and that the no-go determination continue to be left in the pilot's hands.

The compensation set out in Bill C-310 bears no relationship to the economic realities of air transport in Canada. Where is the equity in paying \$1,200 in compensation to a customer who purchased a \$99 ticket to Florida?

The tarmac delays of \$500 an hour referred to previously will have every passenger on board eagerly checking his watch. If this indeed is going to compensate the passenger, it should not equal winning a lotto.

Canada has an open marketplace with competition on most routes. If a particular carrier routinely delays or cancels flights, there are generally alternatives available to customers. I would point out that there are no strictures on other transport modes that may experience delays or cancellations, so why air transport?

Let passengers vote with their wallets. Nothing sends out a stronger message than consumers opting for competitors or other modes of transportation when they're not satisfied. ATAC recommends a review of these fines so that, combined, they never exceed the price of the ticket.

•(1640)

Bill C-310 was written envisaging the infrastructure that exists in large airports. Unfortunately, in Canada, circumstances in remote, small, and northern airports are more austere, and communications may be unreliable at best. Some small airports don't even have a terminal building. If an airline flying to and from such a location takes a look at the financial risk that Bill C-310 engenders against a smaller return to flying the route, it is possible that the air carrier will not service these locations, or, alternatively, will provide service on a reduced basis. Was that the intent behind the legislation?

The member for Western Arctic and many of your colleagues from coastal regions could see service to their constituencies severely affected by reduced service during unstable weather seasons. Airlines could simply decide to suspend service to those regions during part of the year rather than run the risk of being penalized on a regular basis because of unstable weather conditions.

ATAC recommends that remote, northern, and smaller communities be excluded from the bill, and that it is not applied to operations that use aircraft with fewer than 60 seats. Most of the aircraft service in small, remote, and northern regions fly within this category. These are all the Beech 1900s; the Dash 8s' 100, 200, and 300 series; the Metroliners; the ATR 42s; and the Convair CV-580s, just to name a few of the planes serving our regions. Also, many jets operate in the north in combi configuration with less than full passenger complement. This could result in a 737-200 operating with as few as 20 seats.

Many of the provisions in Bill C-310 hold the airline accountable for events beyond the direct control of the airlines. Airlines would be liable for weather, ground delays as a result of de-icing paths, congestion, gate availability, and slow snow clearance. Tarmac delays may result from lightning threats that necessitate ground handlers moving indoors. Air traffic control may impose further delays. Is it right to make the airline financially responsible for such issues? The answer is a resounding no.

ATAC recommends that the wording of this bill make a clear distinction of responsibility. Airlines cannot be accountable for delays beyond their control. To make a profit, airlines have to fly their planes as much as possible. Any delays result in a cascade of other delays, inconveniences, and other cancellations, all of which affect passengers flying later that day or even subsequent days using the same aircraft. This leads to lost revenues.

Unfortunately, we have to live with occasional mechanical failures that result in flight delays and, on occasion, the cancellation of flights. A simple instrument warning can lead to a delay to pushback and takeoff while pilots and maintenance crew complete complex checking procedures to ensure the flight can be carried out safely. Airlines certainly do not hesitate to put safety ahead of a good departure record. Certainly it is not the bill's intention to change our commitment to safety.

The Tourism Industry Association of Canada and the Canadian Chamber of Commerce have both come out against this bill, saying it could only result in higher costs to consumers and businesses alike. The air transport industry in Canada is already struggling to be competitive and sustainable, in that it is already considerably

burdened with high structural costs, security infrastructure costs, and taxes of all sorts, including the fuel excise tax. The threat of added costs—namely, unreasonable punitive damages out of all proportion to the magnitude of the carrier's revenue on any given flight—could only result in the deterioration of our viable air transportation system for Canadians.

In conclusion, we want to make it perfectly clear that ATAC is opposed to Bill C-310 as it reads today. We feel that should this legislation proceed without substantive amendments, there would be unintended consequences that could lessen safety and ultimately result in reduced service for the travelling public and consumers at large. However, should legislators decide to move forward with this bill, we've prepared a series of suggested amendments, which we have already sent to each member of the committee. We hope that you will seriously consider these amendments, because the safety, quality, and availability of air transport in Canada are at stake.

•(1645)

[*Translation*]

In closing, I want to reiterate that the Air Transport Association of Canada is opposed to this bill because in its present form, it gives the priority to compensating passengers rather than ensuring the safe operation of an airline. That is unacceptable for the air transport industry.

[*English*]

We thank you for your time and attention. We would be pleased to answer your questions.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you very much, Mr. McKenna.

Let me go to Mr. Fruitman, please.

**Mr. Mel Fruitman (Vice-President, Consumers' Association of Canada):** Thank you for the opportunity to present our views on Bill C-310. We received the invitation to attend less than 24 hours ago, so my remarks will be brief.

The Consumers' Association of Canada is a 62-year-old, independent, not-for-profit, volunteer-based organization with a national office in Ottawa and provincial and territorial representatives.

I'm not a high-paid consultant, by the way. I'm an unpaid volunteer.

**A voice:** You're hired.

**Mr. Mel Fruitman:** Our mandate is to inform and educate consumers on marketplace issues, to advocate for consumers with government and industry, and to work with government and industry to solve marketplace problems in beneficial ways.

For the past 25 years, the performance of successive Canadian governments with respect to consumer protection has been less than stellar. I would even go so far as to say it has been all but non-existent. We now have before us an opportunity to give at least that portion of the Canadian public who travel by air the service and protection they deserve. While we have seen increased competition in recent years, since the demise of its major competitor, Canadian Airlines, Air Canada and other carriers, to a lesser extent, seem to treat their customers with disdain.

Some examples are misleading advertising, finding out that only one seat is available at the advertised price when trying to book for a family of four, inappropriate add-ons to ticket prices, charges for checking bags, and, most recently, extra charges for seats that have a little extra leg room because of where they are situated within the aircraft. Those tend to pale by comparison with those situations that Bill C-310 attempts to modify or correct.

Before I go any further, let me note that safety is always paramount. We do not feel that safety should be, nor will it necessarily be, compromised by the types of measures introduced in this bill.

This bill deals with a number of the most egregious insults foisted upon the flying traveller: cancellations, delays, sitting on the tarmac, denial of boarding, overbooking, and lost baggage. Even though the CAC is not set up to receive complaints, nonetheless we do receive thousands of them each year relating to these specific problems. I will not take time now to describe the situations, since they are well known to committee members and have been mentioned by Mr. French.

In fact, I guess we know they are very real when they find their way into a cartoon in this morning's *Globe and Mail*. "Bizarro" shows a patient lying on a psychiatrist's couch saying, "I'm not afraid of flying *per se*, I'm afraid of long lines, hidden fees, irrational security requirements and unexplained delays."

I will note, however, comments made before this committee by a frequent flyer who calculated that his own incidences were less than one-quarter percent of his flights. I would suggest that those of us who fly a lot have become so inured to these occurrences that we hardly notice them unless they actually cause us to miss a meeting or a grandchild's birthday celebration.

But what about the vacationers who lose several days or miss out completely because of cancellations or overbookings? What about the parents trying to amuse two toddlers while waiting for their delayed flight to depart; the elderly lady who becomes ill while incarcerated for hours sitting on the tarmac with inadequate air or water or other facilities; the wedding party left without their attire because of lost luggage? It does not matter to them that this happens less than one-quarter percent of the time.

Contrary to statements made before this committee, Bill C-310 is about rights for passengers and it does aspire to improve the travelling experience of Canadians. From a consumer's perspective, all of the provisions contained in the bill would reduce incidences of passenger inconvenience if airlines reacted appropriately. The aspiration of the bill is not to penalize airlines but to act as a deterrent, to encourage the airlines to do right by their customers and

to try harder and thus to avoid penalties. Please do not be swayed by blackmail, the threats to reduce service to rural communities across Canada. This bill does not have to "profoundly affect the cost structure" of the business or "force dramatic price increases on Canadian consumers", not if the airlines view it as an incentive to have satisfied, happy customers.

The requirements that would improve customer convenience and satisfaction and compensate them for egregious abuses are not onerous. The bill does not, as stated, "make airlines responsible for the weather". If the current wording is less than satisfactory, particularly with respect to delays, it can easily be rectified.

• (1650)

Frankly, I am astounded at the response to the phrasing in there regarding extraordinary circumstances. This is the kind of escape hatch that lawyers generally love to have in legislation. I do not understand why it's being objected to right now. It covers a gamut of everything and really gives them a huge out.

There is nothing in this bill that requires airlines to subjugate public safety to passenger convenience. The whole gloom-and-doom scenario is written by those who do not treat their customers with respect, do not aspire to improve the passenger experience, will not accept responsibility for their own shortcomings, do not wish to alleviate the pain felt by passengers in these situations, and, as a result, can only see penalties and not opportunities.

We urge the committee to please endorse Bill C-310 and give Canadian air travellers the protection and comfort they pay for and expect to receive.

**The Vice-Chair (Hon. Joseph Volpe):** Well, Mr. Fruitman, I guess you've done committee members a little bit of a favour. They're going to be able to ask more questions as a result of your brief presentation.

I'll go to Mr. Byrne.

• (1655)

**Hon. Gerry Byrne:** Thank you, Mr. Chair.

Thank you to all the witnesses appearing before us under oath.

Mr. McKenna, your organization represents a substantial portion of the commercial airline business in Canada. Is that correct?

**Mr. John McKenna:** We represent a large number of airlines—small, regional, local, and national airlines.

**Hon. Gerry Byrne:** Which of your airlines—all, most, many, some, or none of the airlines you represent—are signatories, formal signatories, to "Flight Rights Canada"?

**Mr. John McKenna:** Our association is a signatory to "Flight Rights Canada", and we are mandated by our members to be.

**Hon. Gerry Byrne:** Every one of your members adheres to "Flight Rights Canada".

**Mr. John McKenna:** I could ask, but I could not tell you now if everyone does.

As an association, it was voted by...

**Hon. Gerry Byrne:** No, no, this is very important. A customer doesn't contract with an airline association. A customer contracts with an airline.

Which of your airlines are signatories to "Flight Rights Canada"?

**Mr. John McKenna:** I'm told that about 90% of the airlines are signatories.

**Hon. Gerry Byrne:** Would you be able to present information or evidence to this committee that any of your members have provided any information to their passengers through their on-flight magazines, brochures, or posters or in the training of their staff of the existence of "Flight Rights Canada" and what those provisions require of them?

**Mr. John McKenna:** All the airlines have their own policies as far as how they operate and as far as customer relations are concerned. Not all airlines have flight magazines and so on. Many of our airlines—

**Hon. Gerry Byrne:** Understood, but would you endeavour to provide to the committee, on behalf of your membership, with specific examples, airline by airline, of how they inform their passengers of "Flight Rights Canada"? Could I also ask if you would actually provide a copy of the formal document in which your member airlines signed on formally to "Flight Rights Canada"?

Would you be able to provide that to this committee?

**Mr. John McKenna:** I will provide that to the committee. I will do the research and send it to all the committee members if that is a request.

**Hon. Gerry Byrne:** Thank you very much.

**The Vice-Chair (Hon. Joseph Volpe):** Would you direct that to the clerk, please?

**Mr. John McKenna:** Yes, of course.

**Hon. Gerry Byrne:** Would you agree with Mr. Prud'homme who appeared before us and said that the preferable situation would be for the CTA, with its existing knowledge and competence in civil aviation regulation, legislation, investigation, and enforcement, to be empowered with additional provisions to actually investigate and enforce matters that provide an inconvenience to passengers? He said that the CTA should be directed to do so within a minimum standard of passenger protection.

**Ms. Tracy Medve (Director, Board of Directors, Air Transport Association of Canada):** If I may answer, it's our preference or recommendation, as an airline and as a member of the board of directors of ATAC, that you do not support this bill. However, the CTA is a possible forum for having those matters reviewed if there's a complaint.

I represent Canadian North. We're a very small carrier, relatively speaking, in terms of the size of the airline and the number of aircraft we fly. Geographically, we cover almost all of Canada, and many of our customers are our owners. We're owned 100% by the Inuit of Nunavut and the Inuvialuit of the western Arctic.

The CTA could be a possible forum. There have been disappointments with the CTA, among some member carriers, in the duration of time it takes the CTA to deal with certain matters, such as the issuance of licences and some of those things that are

critical to our ability to do business. If there's no licence, you can't operate—

**Hon. Gerry Byrne:** But in matters relating to basic customer service—excuse me for interrupting—that doesn't imply a safety feature, just a simple investigation. That's probably what you're saying.

Am I hearing you correctly, that it's not a bad format to decide whether or not it was a CATSA problem versus an airline problem?

**Ms. Tracy Medve:** I'm saying it's a possible format, but I don't necessarily agree that those kinds of customer complaint issues will turn out to be simple. Usually it's not a simple set of circumstances that have arrived at someone's being unhappy.

• (1700)

**Hon. Gerry Byrne:** That's why someone with competence in being able to investigate and enforce those kinds of matters, as to where the competence or incompetence lies, is important.

Mr. McKenna, can I ask you, have you been contacted by the minister or the minister's office, or by anyone with Transport Canada, prior to M-465, my motion calling for an airline passenger bill of rights, which passed unanimously in the House of Commons on June 9, 2008? I think that was the date. Were you contacted by the minister or the minister's office, or any of his agents or officials, asking you, prior to that vote occurring, to get out there, get the ducks lined up, lobby against this effort?

You're under oath, I remind you. Are there any e-mails that you are aware of from the minister or the minister's office to you, or to any of your agents, or staff, or members?

**Mr. John McKenna:** I read that article in the paper this morning also.

I arrived in my position on January 1, 2009, so I started investigating that very subject. We have no recollection of any such contact with ATAC personnel or its president on this subject.

**The Vice-Chair (Hon. Joseph Volpe):** You have 30 seconds.

**Hon. Gerry Byrne:** Do you think it would it have been better, actually, for the government to act? Would you rather be reacting today to a government piece of legislation or a private member's bill?

**Mr. John McKenna:** Sir, the source of the bill is not the issue. The issue is the content of the bill.

**Hon. Gerry Byrne:** So you don't want any consumer protection.

I just want to follow this correctly. The minister himself said that enforceable consumer protection for airline passengers is a must. That's what he said when he voted for my motion. It is not in place today as it should be, and it has to be in place.

Do you want the minister to bring forward, as he promised to do, enforceable, robust consumer protection legislation for airline passengers?

**The Vice-Chair (Hon. Joseph Volpe):** It will have to be a very brief answer.



**Mr. John McKenna:** I would encourage the minister to consult with the industry before doing so, but certainly we would cooperate in such an ordeal.

[*Translation*]

**The Vice-Chair (Hon. Joseph Volpe):** Thank you.

Mr. Laframboise, you now have the floor.

**Mr. Mario Laframboise:** Thank you very much.

I will resume the interpretation I was giving the witnesses previously.

Mr. Fruitman, you mentioned that changes could be made. And Mr. McKenna, you said that some measures in the bill could be amended. The problem is that this is a private member's bill. We can't do whatever we want with the bill.

Let me give you an example. The Liberals and New Democrats are going too far in the Air Cubana tragedy, which affected a number of Quebeckers. I call it a tragedy because in March 2008, travellers remained on the tarmac at the Ottawa airport for several hours because their plane had been diverted to Ottawa because of the weather. The Ottawa airport authority told us that Air Cubana hadn't paid its dues, while Air Cubana said that it had. Ultimately, the passengers were the ones to pay the price. What is important to me is that the passengers are treated fairly.

I must tell you that I submitted to the legislative clerks in the House of Commons an amendment that reads as follows: That Bill C-310, in Clause 5, be amended by adding after line 26 on page 4 the following:

(2.1) If the air carrier required to provide services or compensation under subsections (1) or (2) is of the opinion that the delay results from a measure or decision taken by an airport authority, the Canadian Air Transport Security Authority (CATSA), NAV CANADA or the Canada Border Services Agency, it may submit the matter to the Department of Transport, which shall determine the responsibility of the organization in question and its obligation to refund the air carrier the amounts it had to pay out under subsections (1) or (2).

I felt this was straightforward. If passengers ever had such an experience, like the one experienced by Air Cubana passengers, they should be compensated. If the airline is not responsible, whoever is will reimburse it.

I received the opinion of the legislative clerk of the House of Commons: my motion is out of order because this changes the meaning of the private member's bill. It is not a government bill. I want you to understand this, Mr. Fruitman. I agree that we should protect consumers, but my hands are tied because this is a private member's bill, which can only be subject to very minor amendments. The majority of Mr. McKenna's proposals and what you might propose will be found out of order by the legislative clerk of the House of Commons. This is not a government bill. Only government bills can be amended by committee, changed, improved, etc. A private member's bill is limited to its initial intent, and that is the problem we have here.

You can blame me, you can say that I am bending to pressure by lobbyists—which is not the case and never has been—but I will never agree to saying things that I cannot legally say. I am not entitled to make the amendments that I want to make to this bill because it is a private member's bill.

Whether Mr. Byrne likes it or not, the government responded to his motion. It agreed to the plan put forward by the air carriers. There was a motion, the government accepted the agreement signed by the air carriers, but it decided not to table a bill. That is the government's decision, but we cannot do whatever we want with this private member's bill. I would like you to tell me what you would like to change and that you understand my position. Do you have any comments or questions?

• (1705)

**Mr. John McKenna:** I can answer quickly. If I have understood what you said, airline companies would have to pay and then try to be reimbursed. It is complicated.

**Mr. Mario Laframboise:** As far as I am concerned, that would be an option. I would like to help Air Cubana passengers who spent so many hours on the tarmac. They should have received compensation. I agree.

**Mr. John McKenna:** Yes.

**Mr. Mario Laframboise:** The problem is I do not want to have the airline paying for a mistake it did not make. I did it to try to...

Essentially, passengers say that they deal directly with the airline selling the tickets and that it is easier to deal with that airline. If I subscribe to that view but if the airline is not at fault, it would be reimbursed and those who are responsible would pay. Do you understand?

**Mr. John McKenna:** Who is funding CATSA, NAV CANADA and airports? Airline companies and passengers.

**Mr. Mario Laframboise:** It is out of order. If you are trying to impose liability on someone else under this bill, it would be out of order because you would have to see whether or not NAV CANADA has a budget to cover it. That is not the case. You are absolutely right, airport authorities do not have a budget for that and you and passengers would be paying in large part. That is the reality. It is far more complex than you would think. There is an attempt here to solve the problem, but we are not solving the problem; we are creating new ones. That is the reality.

**Mr. John McKenna:** On that point, I fully agree with my colleague who says that lawyers will really appreciate this bill, that is for sure.

**Mr. Mario Laframboise:** Oh, oh!

Mr. Fruitman.

[*English*]

**The Vice-Chair (Hon. Joseph Volpe):** You have about a minute and 30 seconds.

**Mr. Mel Fruitman:** You've covered an awful lot of ground here, sir. With respect to the parliamentary procedures, I'm sorry, I'm not familiar enough with them to know what can and cannot be done. When I referred to possible alterations, I was thinking of a couple of very simple ones with respect to delays that would not necessarily make cancellation the default position but would perhaps clarify a situation with respect to delays. I am looking at perhaps minor modifications if they could indeed be made, if they needed to be made, but not to have the bill thrown out because of that.

We are not looking to penalize, which had been the thrust of your comments with respect to Cubana. This is an attempt to change behaviour. It's not an attempt to get at a particular airline or a particular situation such as Cubana. And I think the bill has been very well drafted and in a manner to attempt to change airlines' behaviour on behalf of Canadian consumers. The sort of circumstances that have been described, if we at least put the focus on the airlines, causing them to change their behaviour, if they have problems further back in the system, there is sufficient time for them to work with the other players in the system to help to resolve some of those problems before the fact.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. Fruitman.

Thank you, Mr. Laframboise.

I'm going to go now to Mr. Maloway.

**Mr. Jim Maloway:** Thank you, Mr. Chairman.

I want to begin by drawing people's attention to what happened in Vancouver last year. I'm told that there was a snowstorm and people were stuck for a couple of days. One of the passengers did tell me that in fact the airline, in this case Air Canada, was planning to subrogate against what it saw as the guilty party—which was the airport, right?

So to answer Mr. Laframboise's question about what should happen, the Cubana people would be paying the passengers for the tarmac delays, and they in turn would subrogate against who they saw as the guilty party, which might be the airport authority.

But that's for them to sort out. We cannot solve everybody's problems here.

I want to deal with a couple of other issues.

Mr. McKenna is the first industry lobbyist I've run into who seems to have adopted a reasonable approach. I say that because he has talked about amendments to the bill.

We have heard the industry lobby. We have actually drafted some amendments. One of them, by one of the members, is to make certain that the compensation doesn't exceed the amount of the ticket.

It was mentioned by you that if you bought a \$99 ticket, you shouldn't get a huge amount of compensation. That in fact is one of the amendments that's going to be brought in.

I would certainly like to get a copy of all of your proposed amendments, because we may have forgotten one or two along the way.

You talked about excluding certain airlines under 40 seats or 60 seats or whatever. That is a certain possibility as well. I think there is one amendment being drafted to possibly exclude airlines way up north, up in the Northwest Territories. These are things that can be resolved by amendments.

We have an amendment to reduce the tarmac delay penalty from \$500 to \$100. I'm sure that would be a big help to you.

We have another amendment to reduce the compensation for cancelled flights and denied boarding to half of what the

compensation is currently in the European law. We're taking them back to what it was in Europe five years ago. As you know, the European legislation didn't start just five years ago. It's been around since 1991. Air Canada is very familiar with that legislation. Since 1991 they've been paying out under it. We've now taken those penalties, those compensation levels, back to what they were in Europe five years ago.

These are amendments that have already been drafted. When we get to that stage, members of this committee will be introducing those amendments. We'd certainly like to see what other amendments you would suggest so that we can actually get them drafted.

There's one other point I want to bring up, and that's the issue of flight rights. I was under the impression, up until now, that the flight rights agreement was being adopted by only four carriers—Air Canada, WestJet, Air Transat, and another member of the group—and that they were the only carriers that were putting flight rights in their tariffs. We're having a lot of trouble finding out where they are, because Air Canada alone has, like, 115 pages on their website dealing with these.

At any rate, the downside of flight rights is that it can change. The tariffs are different with each airline, as you know. You can fly from Toronto to Calgary with Air Canada and be under one set of tariffs, and then fly from Calgary to Vancouver with another airline and be under another set.

Now, what kind of a mess are you going to have on your hands when you have a customer trying to sort out who's responsible for what? Plus, we understood there were only the four carriers who were subject to flight rights.

In addition, flight rights has been shown to be totally ineffective. As a previous Liberal speaker pointed out, the flight rights agreement has no penalties. The only positive thing I saw in flight rights was that it recognized that 90 minutes was the maximum amount of time that people should be kept cooped up in airplanes.

• (1710)

I thought that was very important, that the Canadian airline industry decided—I don't know how they figured this out—that somehow 90 minutes was what they felt was long enough and at that point they were prepared to let people off the plane. We simply said, well, if they say 90, we can say 60, and we will have some compensations.

I do want to say in addition that the bill is very clear, if you read it. These bills are drafted by legal teams. We have two exclusions.

On the tarmac delay itself, the exclusion reads as follows:

an opportunity to disembark from the aircraft if it is possible to do so without causing any undue risk to the health or safety of the passengers or any other person or to the safe operation of the aircraft or any other aircraft

That's the exclusion. Our lawyers have looked at it. They feel that gives the pilot lots of flexibility. If they feel it doesn't, you can change that.

• (1715)

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Maloway, I just want to be able to have them respond to your observations, and they've got 58 seconds to do that.

**Mr. Jim Maloway:** I'm sorry. I thought I had eight minutes.

**The Vice-Chair (Hon. Joseph Volpe):** You can use up the rest of the time, if you like, but they're not going to be able to say anything.

**Mr. Jim Maloway:** By all means, sir.

The other exemption is for extraordinary circumstances dealing with cancellations.

**The Vice-Chair (Hon. Joseph Volpe):** You can try; you have 20 seconds apiece.

**Ms. Tracy Medve:** I think it's important to be very clear on the matter of our being able to subrogate against others who may have caused problems. Nav Canada gets all its funding from the airlines. If Nav Canada causes a delay and we get fined for it, and we have to go back to Nav Canada and they have to pay, we're going to pay twice, because they get all their money from us. It's a non-profit organization and they're funded by the airlines. So that is of no comfort at all.

I think it's also important to remember that airlines are not government institutions. We're privately owned businesses. We are regulated for safety. We have customers who know where I live. I'll tell you, if they want to complain about things that happen at our airline, I get a phone call at home sometimes. They know how to complain.

I think you have to understand here that we're privately owned businesses. We're not publicly funded.

**The Vice-Chair (Hon. Joseph Volpe):** Okay, Madam.

**Ms. Tracy Medve:** We have private participation. It's not in our best interest to treat our passengers badly.

**The Vice-Chair (Hon. Joseph Volpe):** We're well over time, Madam.

I don't know if Mr. Fruitman wants to offer a five-second comment. He's welcome to.

No?

Okay, I'm going to go to Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** Thank you, Mr. Chair.

I got bumped from my last round of questioning. I've demanded compensation and I get three minutes more than I would have had last time.

**The Vice-Chair (Hon. Joseph Volpe):** You've just consumed 30 seconds.

**Mr. Jeff Watson:** I will let you know, Mr. Chair; if I have any time left over, I'll return it to Mr. Jean as a favour.

First of all, Mr. Laframboise brings up something that's very important to the discussion here. I think often we get groups who come and want to contribute. We have a lot of aspirational talk around the table, but the actual mechanics of what we're doing is important here. I think we share a lot of the same aspirations. I don't think anybody at this table would argue that passengers deserve no rights. So how do we get from shared aspirations to reasonable outcomes? Is Bill C-310, in other words, the right tool? We already know, because it's a private member's bill, that there is only so much change that can be done.

Mr. Maloway listed off a whole bunch of cosmetic changes—we can play around with the amounts of compensation, for example. That's a cosmetic change. But those of us on this side of the table, I think, will argue that the bill is structurally wrong, which presents us with some real challenges. I don't like Mr. Maloway's suggestion that we plunge the airline carriers into the business of going after other people who may be responsible for problems that happen that are beyond the control of an airline.

At the end of the day, from our perspective, Bill C-310 is about punishing air carriers while letting other responsible parties off the hook. That's a problem. We can't really necessarily change the bill to reflect that. So this is the real debate we're actually having here at the table.

I want to go through a series of potential situations. Some may be extraordinary circumstances and some will be less extraordinary circumstances, and I want to take you through them.

An accident on a runway, a hostage-taking on a tarmac, and a medical emergency on an aircraft may be extraordinary circumstances, but if they happen to cause a delay for somebody such that they have to stay overnight, the airline is still on the hook. They may not be on the hook for maximum expenses, but they're still on the hook for expenses that were not their problem. Is that just?

I'm going to ask Mr. Fruitman whether he thinks a situation like that is just.

Mr. McKenna, you can chime in as well.

**Mr. Mel Fruitman:** Well, the way you've phrased the question, it would sound like it's, but again, I don't think that is necessarily the outcome of that. There are exclusions in there. I think that "extraordinary circumstances" phrase allows for a lot of leeway, a lot of—

**Mr. Jeff Watson:** But it only allows them a leeway from certain forms of compensation. The situation that I proposed is if it delays a passenger where they have to stay overnight. The airline is still on the hook for putting them up in a hotel and feeding them. Those are the technical specifics of the bill, Mr. Fruitman.

**Mr. Mel Fruitman:** You're referring specifically to delays, and I already referenced that. That, in my mind, is about the only area that I saw in there that perhaps needed a slight wording change to make sure that the extraordinary measures applied in that situation, as well.

**Mr. Jeff Watson:** Let me move on to another situation. I worked on an assembly line in a factory. I've pulled work refusals for unsafe circumstances. If I happen to be a member of a ground crew, not related to the airline or the air carrier, and I pull a work refusal because the area out on the ground may be unsafe for me working there, and that causes a delay for the airline, is it the airline's fault? In other words, should they have to pay compensation for something that's a bona fide safety issue for somebody's health and safety, but is unrelated to the responsibility of the air carrier? Is that a fair thing to ask the airline carrier to pay compensation for?

• (1720)

**Mr. Mel Fruitman:** I would think, if I understand you, that unless it was shown that pulling that work order...airline was as a result of negligence on behalf of the airline—in other words, this is something that was discovered on the line—it would fall under the extraordinary measures category.

**Mr. Jeff Watson:** I've also been injured on the job. In fact, I got hit on the head on the assembly line by a moving part. I was out for 40 minutes, but I'll tell you, my zone manager wanted the assembly line started back up because of the cost to the auto manufacturer of down time on the assembly line.

If we have a worker who's out in the apron area and they encounter a work injury—it may not necessarily have anything to do with the air carrier—should the air carrier be responsible for paying compensation for a delayed flight because of a work injury? It can certainly happen a lot more often than some may realize, but it certainly can happen. If a worker is injured out there, is that fair to make an air carrier pay for that?

**Mr. Mel Fruitman:** Again, I think these are all specific examples—hypothetical ones, or perhaps real ones—that could be covered off under the legislation and I think there is sufficient wiggle room in there, if you like, to allow for those kinds of decisions to take place—

**Mr. Jeff Watson:** How about this one? This one actually happened to me. I was on a flight from Ottawa to London and was delayed out on the tarmac for over two hours because of congestion that was created by a problem in Toronto.

Is it right to make the air carrier that I was flying on responsible to compensate me for being out on the tarmac for that long? We weren't allowed to come into the gate and deplane. There was congestion in the area. It happened.

**Mr. Mel Fruitman:** Again, I'm going to come back to the point that you are citing specific examples of things that might go wrong and the penalties associated with them. That, in my opinion, is not the thrust of this legislation. The thrust of the legislation is, indeed, to change behaviour, and given—

**Mr. Jeff Watson:** Mr. Fruitman, it's actually my time. But my point here, Mr. Fruitman, is that there's a structural problem with the bill in that it places sole responsibility for any problem on the air carrier. As Mr. Maloway suggests, let the air carrier go after others who are responsible.

I think the bill has a structural problem, Mr. Fruitman, and needs to be rejected.

If I have any time, Mr. Chair—

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Watson, it is no longer your time.

It's Mr. Dhaliwal's time.

**Mr. Sukh Dhaliwal:** Thank you, Mr. Chair.

To Mr. McKenna, first of all, when it comes to the advertised prices, do you have any objection when it comes to all fees displayed?

**Mr. John McKenna:** That's a very difficult thing to do, because many different airports have many different fees. So how would you do that? We certainly wouldn't object that the passenger know everything that he's paying for, or he needs to pay, before he can get on the flight. I got on a flight yesterday from Quebec City. The price was \$200 before taxes, and after all the fees it was \$415. The airline is not responsible for all these fees.

**Mr. Sukh Dhaliwal:** Basically, you are saying no.

**Mr. John McKenna:** I'm saying I have no objection.

**Ms. Tracy Medve:** If I may, I think it's important to understand that the carriers wouldn't have a problem as long as all carriers displayed the fares the same way.

**Mr. John McKenna:** Yes.

**Mr. Sukh Dhaliwal:** Mr. Maloway is willing to make some compromises. What parts of Bill C-310 do you foresee would be difficult to enforce and should get the attention of the committee?

**Ms. Tracy Medve:** Do you mean which elements of the bill would be difficult to enforce?

**Mr. Sukh Dhaliwal:** Yes, to enforce, and what are your suggestions? Mr. Maloway is willing to compromise or make changes.

**Mr. John McKenna:** We have suggested a series of amendments. Actually, I'm surprised you haven't received them. We sent them to everybody. I'll give you a copy before we leave today. We sent them to every member of the committee on November 12.

• (1725)

**Mr. Mario Laframboise:** I received that.

**Mr. John McKenna:** There are many aspects of this bill, too many to list at this point. We'll gladly work with you if you want to do that, sir.

**Mr. Sukh Dhaliwal:** This question goes to both Mr. Fruitman and Mr. McKenna.

Do you think it's fair and ethical, when we are drafting a bill, that comments should only go to the industry and not to the consumers or the consumer groups? Do you think it's very fair?

**Mr. John McKenna:** What would go?

**Mr. Sukh Dhaliwal:** When we are drafting a bill, you say that industry should be consulted. Is it fair that we should only go to the industry, but not go to the consumers?

**Mr. John McKenna:** Of course not. I think all stakeholders should be consulted. It goes without saying.

**Mr. Sukh Dhaliwal:** Mr. Fruitman, can you tell me if there is any way you see that this bill can be improved? Can you make any suggestions?

**Mr. Mel Fruitman:** I think there are very few flaws in it. I think it's a very well-crafted bill. I think there are a couple of minor changes that could be made.

If anybody has any suggestion of introducing a bill that they think would be preferable to this one, then I'd like to see that done post-haste and not have this thing just thrown away for another five or ten years.

**Mr. Sukh Dhaliwal:** Thank you.

**The Vice-Chair (Hon. Joseph Volpe):** Colleagues, the bells will ring in about three minutes. We have a small item of business to attend to.

I'm going to thank—

**Mr. Brian Jean:** I have two points of order in relation to the witnesses, one in particular. Can I deal with that now, Mr. Chair?

**The Vice-Chair (Hon. Joseph Volpe):** You can deal with it, but you'll have to do it very quickly.

**Mr. Brian Jean:** I will.

My first point of order is on the issue of good faith. I'm wondering whether or not we're playing politics.

I know that Mr. Byrne has been here for 12 years. He was a minister in the previous Liberal government. I'm wondering if he could provide to us what he did, actually, during that period of time that he was here—before this government—in relation to this particular issue. He put the motion on the federal government, and some of us feel like he's playing politics with this issue.

That's my first point of order. My second is in relation to Mr. Fruitman.

We checked the website to find out his expertise and what kind of education or background he had in relation to the airline industry and the chain of supply as well as the maintenance, unions, baggage handlers, pilots, connectors, etc., because it's a very complicated issue. I didn't hear from him, in relation to his paper, what that was or what expertise he used to come to the conclusions he did.

I was going to suggest for future reference to put it on the website, because your CV is not on the website, or to provide that information as you make your presentation.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you, Mr. Jean, for raising these two points. I'm not sure they're points of order.

With respect to Mr. Byrne, he can speak for himself. As far as the committee is concerned, his track record as a former minister in a government is not what we're discussing.

As far as Mr. Fruitman is concerned, I'm sure he appreciates any advice you can give him regarding what credentials he has, but we invited him, and we didn't invite him to—

**Mr. Brian Jean:** I meant in relation—

**Hon. Gerry Byrne:** I have a point of order, Mr. Chair.

**The Vice-Chair (Hon. Joseph Volpe):** Mr. Byrne.

**Hon. Gerry Byrne:** Thank you for recognizing my point of order.

One thing I didn't do, Mr. Chair, is I didn't go to my constituents, tell them I would support the airline passenger bill of rights, vote for it, and then organize lobbyists to actively engage in trying to thwart that particular effort. The minister, however, did exactly that.

**Mr. Jean-Yves Roy:** It's not a point of order.

**Hon. Gerry Byrne:** I don't see where Mr. Jean's comment was a point of order either, but I think it needed a response.

**The Vice-Chair (Hon. Joseph Volpe):** I think we're just going to engage in a lot of back-and-forth.

I'd like to turn the committee's attention to one item. The committee has to report on this bill, as we recognize, by November 25. That means that on Monday we would have to do clause-by-clause or address the issues of this bill in whatever way the committee wishes to do it.

The chairman will be here on Monday. I ask all committee members to come prepared to do that. Those of you who do have amendments, please present them by Friday so that the clerk can distribute them.

● (1730)

**Mr. Brian Jean:** Are you making a motion in that respect?

**The Vice-Chair (Hon. Joseph Volpe):** No, I'm just advising everybody, that's all.

**Mr. Brian Jean:** We will not be presenting—

**The Vice-Chair (Hon. Joseph Volpe):** No, no, I said “if” you have them. If you don't have them, obviously you're not constrained to abide by that good counsel.

**Mr. Brian Jean:** Mr. Chair, if I may, we dealt with this particular issue, I believe, at the last meeting. Did we not vote on the issue, in relation to bringing amendments? And it was defeated.

**Ms. Candice Hoepfner (Portage—Lisgar, CPC):** Yes.

**Mr. Brian Jean:** I would suggest that the committee has already directly dealt with the issue of bringing amendments before that date.

**The Vice-Chair (Hon. Joseph Volpe):** Thank you very much, Mr. Jean. My advice still stands.

Thank you.

The meeting is adjourned.





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