



House of Commons
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 034 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Monday, November 2, 2009

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Chair

Mr. Merv Tweed

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• (1530)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon, everyone.

Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting 34. Pursuant to orders of the day and the order of reference of Wednesday, May 13, 2009, we are discussing Bill C-310, An Act to provide certain rights to air passengers.

Joining us today is the MP who proposed the bill, Mr. Jim Maloway, the member for Elmwood—Transcona in Winnipeg. He will speak on the bill in the first hour.

Thank you for coming. I'm sure that having attended some of these meetings, you understand that you have about 10 minutes to present. Then we'll go to questions and answers.

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

I'm very pleased to be speaking on Bill C-310 and leading off on the committee stage of debate on the airline passenger bill of rights.

I'd like to begin by thanking Mario Laframboise and the Bloc caucus and Dennis Bevington and the NDP caucus for their ongoing support of this bill. I'd also like to thank Gerry Byrne, Joe Volpe, and the Liberal caucus for supporting this bill at second reading. Without all three parties' support we would not be here today discussing the details of this bill.

Mr. Chairman, the Air Passengers' Bill of Rights flows from private member's motion 465, introduced last year by Gerry Byrne and passed unanimously by this House of Commons.

The motion has still not been acted upon by this government. Instead there was a voluntary agreement called "Flight Rights Canada", which had no effect in law but did promise that tarmac delays, for example, would not exceed 90 minutes. Even the airlines now recognize that 90 minutes is the maximum time to confine people on a plane.

What did the airlines do? They proceeded to keep people on the tarmac for six or eight hours, just three months after they agreed on September 7 to adhere to flight rights. So much for flight rights.

On March 2, 2009, the airlines decided they would put flight rights in their tariff, voluntarily letting the Canadian Transportation Agency enforce it. Unfortunately, these tariffs are airline-specific, and the only passengers who will be protected are those on the four airlines that adopted flight rights. That's just four airlines. That

doesn't even include all the Canadian airlines. For example, all foreign carriers would be excluded. That's why we need Bill C-310. Bill C-310 covers all carriers operating in Canada.

Furthermore, even if the four airlines do not follow their own tariffs, there are no penalties if they do not comply with the flight rights provisions. They did not follow through the last time, so why would we believe they would do so now?

We've heard criticisms that fares may rise as a result of Bill C-310. I ask you, did the fares rise as a result of Air Canada's president earning \$26 million in 2007? If the airlines follow the rules in Bill C-310, they won't pay a cent.

The news media have tried to find out how much Air Canada has paid out to passengers in Europe as a result of the European legislation enacted in February 2005, and so far no one has been able to find out. How much did Air Canada pay under the previous European legislation in 1991, which dealt with denied boarding only? This information is important to know when determining the financial impact on the airline. Did Air Canada stop flying in Europe because of this legislation? Absolutely not.

Bill C-310 does not require an air carrier to pay compensation to a passenger with respect to a flight delayed or cancelled due to weather. A flight that is cancelled due to weather falls within the exemption that is provided for in the bill. We've taken the exclusion from the EU law and put it verbatim into the bill, giving the airlines the extraordinary circumstance exclusion that they've used in Europe for the last four years, and they're very familiar with it.

If the air carrier can prove that the cancellation was caused by extraordinary circumstances that could not have been avoided even if all reasonable measures had been taken, then the air carrier is not required to pay compensation to the passengers. This is the standard that has been adopted by the European Union. Cancellation due to weather clearly falls within this exemption and would not be covered by the bill.

All an air carrier is required to do in the case of cancellation due to weather is reimburse the passenger, which is reasonable; reroute the passenger; cover meals and refreshments in relation to the waiting, and there's absolutely nothing wrong with that; provide hotel accommodation if a stay of one or more nights is required; provide ground transportation between the airport and the place of accommodation; and provide a total of two telephone calls, fax calls, or e-mails. There's nothing here that is unreasonable for an air carrier to do.

The EU commissioned a study about two years ago, after the rules were in effect, and while the airlines have been aggressive in Europe in using the extraordinary circumstances argument to avoid paying compensation, all stakeholders agreed that the extraordinary circumstances exclusion was still a good and fair balance between the customer's right to compensation and fairness toward the airline.

There is a very comprehensive Steer Davies Gleave report, which I have here. It's probably 100-plus pages long. It studied this whole area and came to the conclusion that the extraordinary circumstances exclusion was the best vehicle to use in this circumstance.

• (1535)

The reason for extraordinary circumstances is to ensure that the bill is able to survive court challenges. In Europe it survived two. The bill covers denied boarding due to overbooked flights and encourages trying to get people off the flight by agreement, not by forcing them off the plane.

I was on a Northwest Airlines flight from Minneapolis several years ago. The airline had overbooked by six people, and volunteers to deplane were offered free passes. Everybody was happy with that result, and I'm sure they are still talking about it to this day. In Canada, for example, WestJet and Air North, Yukon's airline, do not overbook, so they will pay nothing.

The point is that happy customers are what the airlines need. If airlines have to deny boarding to customers involuntarily, then why should they not be paying the compensation of \$500, \$800, or \$1,200, based on the length of the trip? The same compensation applies to cancelled flights. Europe has been doing this for four years, and Bill C-310 was inspired by the EU legislation, which has been in effect since February 17, 2005. Air Canada operates in Europe and under that legislation. The review panel notes that the EU airlines try to use the exemption as often as possible to avoid paying compensation to passengers. The airlines fought the EU legislation in court and lost. This legislation is sound and is backed up by the courts.

If MPs think that the penalties of the bill are too high, then they can propose amendments reducing penalties to a more appropriate level. In most cases, we accepted the compensation levels in the EU law. The original EU legislation from 1991—there was a bill in effect before 2005—dealt with denied boarding only. The compensation levels were only one half of what they are in Europe today. The 2005 rewrite to the EU legislation doubled the compensation and expanded the scope of the regulation to include cancellations, flight delays, and charter flights. The review panel that I spoke to you about said, just two years later, that the penalties were just fine the way they were; they were not too high and not too low.

Mr. Chairman, why should passengers not have a right to cancel and get a refund after a five-hour delay? Last year there were flights to Mexico that were cancelled through no fault of the people, and they were denied the right to get their money back. We say that if they're going to cancel a flight, you have a right to a refund after a five-hour delay—not that many people will take them up on the option. Why should passengers not get a meal voucher after a two-hour delay? Why should passengers not get a \$100 payment if the airline misplaces their baggage and doesn't notify them within an hour after finding it? Will \$100 bankrupt the airlines? Or will it cause them to smarten up and stop misplacing the baggage in the first place, not notifying the passenger when the baggage is found?

Why should customers not expect better service? Why should passengers not be informed of flight changes, delays, and cancellations? Why should the new rules not be posted at the airline counters to inform customers of their rights and the process to file for compensation? Why should the public not expect all-in-one pricing, so that they know the total cost of the flight before they click the "buy" button?

While the intention of the legislation is for voluntary payment directly from the airline to the passengers, because EU carriers have fought the law so hard in Europe, it has taken the small claims court system to get settlements for passengers. There is no lawyer required. Passengers in Canada can still complain to the Canadian Transportation Agency, but as in Europe, the transportation agencies are not the ones that are getting the payments; it's the small claims courts that are getting people settlements. In fact, recently a large number of British Airways passengers received their settlements through small claims courts.

Mr. Chairman, Bill C-310 is fair to customers and to the airlines. The airlines who follow the rules will not pay a cent. Airlines that claim extraordinary circumstances too often will risk getting even tougher rules in the future. Bill C-310 applies to all Canadian air carriers and all air carrier operations that take place in Canada, rather than to the flight rights only, which cover only four carriers and have no specified penalties.

Why should an Air Canada customer receive better treatment in Europe than in Canada?

• (1540)

The airlines are suggesting that Bill C-310 is not flexible enough on tarmac delays.

Well, Mr. Chairman, paragraph 6(1)(d) on page 5 of the bill says: 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.

All the airlines have to do is keep fresh air and lights working, make sure the toilets are working, make sure food and water are provided, and allow for disembarkation if it's possible to do so without risk to the health or safety of the passengers. If they're unable to do these things, why should they not compensate passengers? If the \$500 amount is too high, then bring in an amendment to lower it.

We need a law, but enforcement is a big issue. It's really up to the passengers themselves. They cannot take action if there's no law to protect them, but if there is a law, those passengers who are alert will take action.

I've answered the question many times about what it will cost the airlines, and the truth is it will cost the airlines nothing if they simply follow the rules.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Maloway.

I'm just going to advise committee members, because I know there are going to be a lot of questions, that I'm going to keep the timelines very tight.

Go ahead, Mr. Byrne, for Mr. Volpe.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you, Mr. Chair.

I appreciate the opportunity to join with you on what I and my colleagues in the House of Commons obviously think is a very serious issue.

As Mr. Maloway pointed out in his earlier words to us, his legislation today follows on a motion that was unanimously passed in the House of Commons calling on the Government of Canada to bring forward this kind of legislation.

While I think it's important to say that we all appreciate that you're open to amendments, there will probably be an intense lobby effort to try to convince parliamentarians that the essence of this bill is wrong, that it's not going to do justice either to passengers or to the industry. While it may be easy to dwell on certain aspects of this, I think it is abundantly clear that the overall thrust of having consumer protection in the airline industry in the 21st century is an absolute must. That is the overriding preoccupation here.

Joe Volpe and I were talking about this issue as I was forming my motion just a little over a year ago. We noted the situation that had faced the Cubana air passengers. There were domestic passengers as well. It wasn't just international passengers coming into Canada from Havana in this particular instance; other passengers were flying domestically as well.

Despite what some have suggested, there are basically no rules governing or providing for protections to airline passengers once they get past security and have their boarding passes. In fact, we noted that in the Cubana situation, after the passengers had spent 12 hours on board the aircraft here at Ottawa International Airport and after their five-hour flight before that, apparently the only way the RCMP duty officer at the time could actually render assistance to a passenger on board who had called 9-1-1 was to invoke the potential of the Criminal Code in dealing with forcible confinement. He had

no tools available to him through the Aeronautics Act or through aviation regulation to allow for assistance to get those passengers off after they had spent 17 hours on that plane. That really tells the tale of the state of consumer protection in the airline industry in Canada.

You mentioned something about the European Union. We all know that the European Union has pretty strong and effective consumer protection for airline passengers. In fact, it invoked it across the entire 26-member European Union as a common market. Air Canada, WestJet, Air Transat, and other Canadian air carriers currently fly into the European Union. Could you clarify whether those Canadian carriers are actually subject to the European Union airline passenger bill of rights? I think I know the answer, but it would be good to get it on record.

Second, Canada recently signed an open skies agreement with the European Union. Not only was it an open skies agreement, but we also agreed to create greater barrier-free access to European air carriers in Canada and to Canadian air carriers operating in Europe. We also agreed, as part of that, to harmonize regulatory safety standards.

This is an interesting situation. We're harmonizing the market systems of airline carriers in Europe, but we're also prepared to harmonize our safety systems. Why don't you think we're prepared to harmonize consumer protections? The European Union has a legislated consumer protection regime that every European base carrier airline has to operate under, even when they're outside European airspace. Canada is obliged to operate that...when they leave European airspace, leave the European aerodrome.

Why do you think we left that particular provision out?

• (1545)

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

Mr. Byrne, in actual fact, yes, Canadian carriers who fly into Europe do fall under the European rules. I had a letter just last week from a gentleman from Newfoundland who was on a flight from Rome. He was two hours late leaving Rome, so they gave him a meal voucher. By the time he got to Toronto to connect to his Newfoundland flight, he was three hours late. He said Air Canada simply dumped him. When he asked for a meal voucher, they said, "No, you get a meal voucher after a two-hour delay in Europe, but it's a four-hour delay in Canada. As for the hotel, forget about it; you're on your own." He thought it right to write me a letter about this whole issue.

The airline can give us statistics. I hope members of the committee do ask the airline representatives for information on how much they have paid in penalties from 1991 onward for denied boarding only, and then from 2005 onward on how much they have paid in penalties and compensation for denied boarding and cancelled flights. That would be very important to know, because I honestly don't know. It seems to me that if they were paying a lot of penalties, they would either have to change their way of operating in Europe or else quit flying there. I haven't seen any evidence yet that Air Canada is going to quit flying to Europe.

I might point out to you as well that in terms of the Steer Davies Gleave report that was done two years after the 2005 European regulations, it was very difficult to get information from the airlines. They requested information of the very type that I'm telling you about right now, and they couldn't get information. The committee may wish to have a representative from this body that did an independent analysis of the European regulation. They're totally unbiased. The person is very willing to cooperate with you and will not take a view one way or the other on the regulation.

At the end of the day, they recommended that the European rules should stay with the extraordinary circumstances. I'm sure the airlines will be asking you to have a clear definition of what that means. At the end of the day, on balance, this organization recommended that they should stick with what is working right now.

•(1550)

The Chair: Thank you.

Go ahead, Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much, Mr. Maloway, for your presentation.

You stated at the outset that your bill had obtained the support of the Bloc Québécois. You know, because of the speech that I made in the House of Commons, that we are in favour of having your bill studied by the committee to try to improve it. Earlier, our Liberal colleague spoke of the Air Cubana situation, where several Quebecers were stuck on board the aircraft on the tarmac at Ottawa International Airport. As you know, this situation was due to weather conditions. I wrote directly to the airline company, which in turn wrote directly to the airport authority and Transport Canada, and at this time, no one has accepted responsibility for this incident.

When you introduced your bill, it was supposed to solve this problem, according to what we had heard. Of course, clause 6 of the bill deals with the rights of passengers on the ground at an aerodrome, but it only targets air carriers. I must tell you that, in Air Cubana's case, I am far from convinced that it was the fault of the airline company. I would say that it was the airport authority that did not do its job. Your bill focuses on making airline companies accountable, but in Canada, as you know, airport authorities control air traffic, decide on what happens and assign space, and the bill contains no measures to make them accountable for all of this.

So I understand why air carriers complained that it is always up to them to pay for everything, when in Canada, many of the requirements and control measures are administered by a non-governmental organization. We must keep in mind that airport authorities, which are responsible for de-icing in airports and providing access rights, are overseen by boards of directors made up of people from the sector.

In this regard, I find that ADM in Montreal, is problematic. In the past, appointed directors were allowed to raise airport improvement fees as they saw fit; now they can borrow money as they see fit as well, but they have no sense of responsibility with regard to the problems that they sometimes cause. Does your bill deal with the accountability of airport authorities?

[*English*]

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

With regard to the Cubana flight, that was actually detailed in a CBC program last night, but there's been considerable coverage of the Cubana situation going back two years now. That is a terrible example of people being confined on a runway for something like 15 hours. Yes, it does point to the fact that there is more than just one body involved here, but I would suggest that shouldn't stop us from passing an air passenger bill of rights mandating that the airlines have to let people off the airplanes within one hour, under penalty, because when a law like this becomes the law, then the airports and customs people have to adjust their practices.

In the United States right now we have similar types of legislation before both houses. What's happening concurrently with that is people like Jim Crites, who's head of the airport authority in Dallas-Forth Worth, are responding in their own way. He is making certain that his airport, and Atlanta, have purchased buses in order to get people off diverted flights in a very quick and efficient manner. They are now constructing buildings on the airport site to house people from diverted flights because it seems that diverted flights are increasing in number.

Just two weeks ago in Ottawa, Air Canada flight 32 was diverted from Beijing, China, to Toronto. Do you know that this plane was seven and a half hours late at the end of the day? It was diverted right here in Ottawa. When I checked into it, I found out they got here at eight o'clock at night, but those poor people were kept on that plane until at least eleven o'clock at night. This is after 15 hours or more from Beijing before they were actually let off that plane. Then they were taken into Toronto and they got there around two in the morning. These things are happening right now.

This is an Air Canada plane, the same airline that says they can let you off a plane within 90 minutes. They're clearly not doing it, because there's no penalty for them if they don't do it.

I agree with you, sir, it's a combination of responsibilities, but we have to proceed on the basis of this bill, and then perhaps a second bill for some other purpose.

•(1555)

[*Translation*]

Mr. Mario Laframboise: Mr. Maloway, your bill will not solve the Cubana situation. That's what I wanted to say to you, that it will not solve such incidents. It may make airline companies accountable, and if so, then we will follow you in this debate.

The Bloc Québécois called on the government to introduce its own bill, because we wanted to solve the Cubana situation. We need a very in-depth analysis from Transport Canada to determine who is responsible for what. I have analyzed the Cubana situation. There were Quebeckers on board. I read the letters of all those involved. No one is claiming responsibility for anything. But at the end of the day, travellers were stuck on an aircraft for 17 hours. In my opinion, the airport authority had a share of the responsibility. The government should have introduced a bill. We'll see.

My problem is that your bill does not solve the Cubana situation. I can't amend it. As you know, it is a private member's bill. The penalties can always be adjusted if we feel they are too harsh or not harsh enough, but I cannot make any amendments to the bill. If I included the airport authorities, it would be ruled out of order by the House of Commons law clerk. That's what I want you to understand. You must not believe that this will solve a problem like the Cubana incident. I'm not saying that it's a bad thing, I'm just saying that your bill will not solve the Cubana situation.

[English]

The Chair: Perhaps you can respond to that later. The time has expired.

Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair.

Thank you for coming forward here.

Of course, most members of Parliament are some of the more familiar passengers on many of these flights across Canada, so I guess in some respects you're talking to an audience that understands the issues very well. That is something that might help this bill move along in a good fashion because of the degree that parliamentarians are subjected to, in many cases, delays and to these types of occurrences.

You talked about this flight from Beijing to Toronto. What would have been the end result for the passengers if this bill were in place?

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

If the bill were in place and the passengers were diverted to the airport here in Ottawa, they would be receiving compensation for the length of time they were held on that airplane beyond one hour. So the theory would be that the airport and the airline would get the people off the plane within the hour so they wouldn't be paying compensation.

Let me just explain something. Maybe this will answer Mr. Laframboise's previous question.

In the insurance business we have a principle known as subrogation, and the bottom line here is that if a car driver drives into your fence at your house, your insurance company pays the claim. They're happy to do it. But a few months later, what they do is they subrogate against the guilty party. They find out who ran into your fence and they go after the insurance company that represents the car driver.

All I'm saying should have happened in Vancouver last year, as an example, is that the airline should have simply paid the bills,

whatever was necessary, as WestJet did, to take care of those customers and to get them on their way, and then worry about who's going to pay afterward. An insurance company would simply subrogate against who they saw as the guilty party, which would be the airport that didn't clean the runway, right? When the airline was asked about that, this is what the airline council said: we don't want to hamper our great relations with the airport, so we're prepared to let the passengers suffer and let them try to find hotels in the middle of a snowstorm, because we don't want to hamper our good relationship with the airport that forgot to plow the right runway.

I'm saying that you take care of your passengers first and then you subrogate after that and chase the responsible parties. That's how it works in the insurance business and that's how it could work here too.

• (1600)

Mr. Dennis Bevington: I would just like to bring up an incident that occurred to me a couple of weeks ago. I was flying out of Calgary to Yellowknife on Jazz, and the Yellowknife airport was having problems with fog. The regulations are such that fog doesn't actually stop the plane from landing. What it stops the plane from doing is taxiing.

So the airport was shut down in Yellowknife. We boarded the plane in Calgary. There were 20 of us on a jet. We sat in the plane for about an hour and a half until about 2:30 in the afternoon, after the pilot came on at two o'clock and said they were waiting for another report on the condition of the airport.

At 2:30 they cancelled the flight. We all got off and waited until eight o'clock at night and then flew into Yellowknife.

Well, when I was in Yellowknife I had a chance to talk to the airport manager. At 2 p.m. that day, the airport was open. They had come up with temporary provisions for taxiing service, and that allowed the airport to open regardless of the condition of the fog.

My question to you is how would you sort all of this out when it comes to show liability? To my mind, the question becomes whether the airline was interested in cancelling the flight because there weren't enough passengers on board. What went on there? How would you get to the bottom of that? What structure would you use to understand the different relationships that were going on with that flight?

Mr. Jim Maloway: That one is actually fairly simple. In the European Union, we have the extraordinary circumstances exclusion, which is part of this bill. When there are circumstances beyond the control of the airline, such as the weather, that is the basis upon which they will deny paying the claim. They'll simply say that the flight is being cancelled because of weather. That's the end of it. And if you want to argue the point, then you will do that.

As a matter of fact, that has been done. In Winnipeg last year, we did have a case where—

Mr. Dennis Bevington: Would it be necessary for a passenger to take that to court, to understand the relationship between the various elements that went on?

Mr. Jim Maloway: Absolutely.

Mr. Dennis Bevington: Okay.

Mr. Jim Maloway: In this case, the passenger knew that it wasn't a weather situation, that it was a mechanical issue, and the airline coded it a certain way. It was an American carrier. The passenger took them to small claims court and he won. As a matter of fact, the judge dressed down the airline for hiding the true rules there.

You see, this is what airlines often do when they have two flights that are a couple of hours apart and only a few people on one flight: they'll cancel the first one and make you wait for an extra two hours so that they can fill up the second flight.

This is the kind of thing we're trying to catch here. We're not trying to make airplanes fly in bad weather or anything like that. We're trying to deal with operational issues where airlines take advantage of people every day. We want to make certain that this doesn't happen any more.

Let's take overbooking as a good example. I think most people would understand that issue very clearly. Let's say you buy a ticket to go to a hockey game, or a ticket to a rock concert, and when you show up you're told, "Sorry, but we sold your seat". Can you imagine that happening? Well, that's what actually happens every day in the airline business. WestJet doesn't do that, but Air Canada does. It means that for the ticket they sold at a lower price a couple of months ago, they've now found somebody who will pay five times the price for it. They're happy to give you your \$200 back because they just got a guy who's paying them \$1,000.

We say that when you do things like that, you should be paying the customer compensation. Let me tell you that—

• (1605)

The Chair: I have to stop you there.

We'll move on to Ms. Hoepfner.

Ms. Candice Hoepfner (Portage—Lisgar, CPC): Thank you very much, Mr. Chair.

Welcome, Mr. Maloway. It's good to have you here today.

I think you definitely are speaking for a lot of individuals. As Mr. Bevington stated, many of us around this table are travellers. We're on airplanes a lot.

I'm interested in what kind of expertise...or what prompted you to bring this bill forward. You seem to have quite a bit of information regarding airlines and their strategy and why they are doing what they're doing. I'm just wondering where you got that information.

Mr. Jim Maloway: Thank you for the question.

I was actually elected in the provincial legislature in 1986, and I was the consumer critic at the time. I've done a lot of work in a whole range of areas. One area is lemon law in this country.

A lot of people are not aware of the organization called CAMVAP, which provides a lemon law equivalent right across Canada. If you buy a new car in this country and it turns out to be a lemon, you're allowed to take it back to the dealership to be fixed. If they can't fix it within four attempts, they will have to either give you another car or buy the car back.

Interestingly enough, I've purchased a couple of cars over that period of time, and although CAMVAP has been around for about 15

years now, when I've asked the dealership and the salespeople about it, they haven't been aware of it.

Ms. Candice Hoepfner: No, sorry, I'll re-ask the question. I'm referring specifically to airlines. You were talking about what airlines do with rebooking and about their strategy to bump individuals and actually make them wait longer. I'm just interested in your expertise there.

I do have a few other questions, so just make that short, if you don't mind, and then I can go on to another question.

Mr. Jim Maloway: Once again, the whole airline industry is just another part of the area I've been involved with for a large number of years.

I know that there's an increasing number of diverted flights. We never used to see the amount of diverted flights that we have now. Especially with the advent of terrorism, we're seeing increasing potential here. We have to start looking at getting our airports equipped with holding areas for people to stay when their flights are diverted so that they're not inconvenienced. We have to come up with ways of getting people off planes, whether it be by buses or ramps, as is being used in—

Ms. Candice Hoepfner: So some of your experiences have brought you to this place with this expertise.

Mr. Jim Maloway: Yes, that's right.

Ms. Candice Hoepfner: As well, you've talked a lot about the European model. Obviously, in Canada the reality is that our weather is extremely different. It's a lot more severe than in most European countries.

I know you talked about extraordinary circumstances. So weather would not be one of those circumstances where—if I'm understanding this correctly—airlines would not have to pay for people to wait on the tarmac, but they would have to compensate for hotels, for meals? Is that correct?

Mr. Jim Maloway: The whole weather issue is one that's been brought up by the airlines.

I think Napoleon would probably disagree with you that weather is worse in Canada than in Europe. Europe is the same as Canada. It has bad weather, and whether you're flying into Russia or into northern Europe, you're going to get the same sort of bad weather you have in Canada. The exclusion does not just simply apply to bad weather. It's extraordinary circumstances. Whatever an airlines happens to think is extraordinary circumstances, that provides the basis for the exclusion.

It's up to the passengers to be smart and aggressive enough to prove them wrong if they get out of hand. Some airlines are operating very favourably and they're paying the customers. Others are hiding and they're saying, "No, those are extraordinary circumstances. Take me to small claims court." We can't construct a bill that is totally against the airlines, because that's what they want us to do. They then can go to court and use that big legal team that they have to throw it out.

We don't want that. We want something that survives court challenges, and the European model has survived two of them.

• (1610)

Ms. Candice Hoepfner: I'll go back to the weather.

I would say that our weather actually is very severe. We have blizzards. With the blizzards that we experience, schools and so on are shut down. Regardless of that, if weather would cause an airline to cancel its flights, what you're saying is that one or two nights should be compensated, as well as meals, as well as one or two phone calls and an e-mail or a fax. That's my understanding of what you would suggest.

I'm wondering if you have costed that out. For example, sometimes we have seen it and it seems to happen over Christmas, where we have major storms. The airports are full of people who are waiting; literally thousands and thousands of people are delayed. They eventually get to where they need to go, but because of severe weather, they are delayed.

I'm just wondering if you have had the opportunity to cost that out, even approximately.

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

I'll tell you, I'd love to be able to cost it out. Perhaps when the airline people are on in the next hour, you can ask them all these questions about how much they have actually paid out in denied boarding between 1991 and 2005 in Europe. How much have they paid out in denied boarding and cancellations between 2005 and the current period in Europe? We can't get the information.

On the European group that we were studying, the regulation can't get the information, so why is this such a big secret on the part of the airlines? They haven't stopped flying, so clearly they are not paying out as much as they would want you to believe.

Ms. Candice Hoepfner: So you haven't—

Mr. Jim Maloway: That would just be my guess.

Ms. Candice Hoepfner: —costed it out.

Mr. Jim Maloway: I'm trying to find out too. When you find out, would you please let me know? Maybe in the next hour you will.

Ms. Candice Hoepfner: Okay.

Thank you.

The Chair: Mr. Volpe.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Thank you, Mr. Chairman.

I'm going to share some of my time with Mr. Dhaliwal.

Just for everybody's clarification, because we're getting into an area where people will tend to go from fact to spin to outright fill-in-the-blank, I'm just wondering whether Mr. Maloway understands that by appearing as a witness before a committee there is an implicit obligation to tell the truth. I don't want to offend him. Everybody who comes before that microphone implicitly and explicitly is held to account for telling the truth to the committee.

He's aware of it, I gather.

The Chair: Mr. Bevington, go ahead.

Mr. Dennis Bevington: On a point of order, Mr. Chair, parliamentarians are protected under our code with the understanding that they are telling the truth. They're protected, and that applies to all parliamentary behaviour.

I think to question the statements of the witness here is going past what is parliamentary behaviour.

The Chair: Mr. Volpe.

Hon. Joseph Volpe: It really wasn't a question of Mr. Maloway. I didn't mean to offend. I said it with all due deference. I just wondered whether he was aware that this is part of the process of coming before a committee.

I noted that some of the questions that were being asked...there wasn't an opportunity to be precise. I just wondered whether that was the case, for clarification more than anything else.

I mean, I appreciate that Mr. Bevington wanted to come to the defence of a colleague, but I wasn't on the attack, so....

The Chair: It's not a point of order, and we'll continue.

Hon. Joseph Volpe: Thank you very much.

Mr. Maloway, you've taken some pains here to describe the fact that the bill is a first step towards providing consumers with some protection, and that one of the steps is to go to a service provider. There are several service providers. The ones that we're aware of are the airline industry and, of course, the airport management.

Is it your view that you need to solve all of the problems at once in one piece of legislation in order for this particular bill to have any legitimacy?

Mr. Jim Maloway: No, I don't think—

Hon. Joseph Volpe: Okay. Well, that's good. That's a good start.

I'm just wondering whether, from the study you've done on the legislation elsewhere, in fact a bill like this opened the door for solutions in court, solutions that weren't there before.

Is that what your bill is trying to get at?

• (1615)

Mr. Jim Maloway: Not really. The reason it's formed this way is because it would need a royal recommendation if it were to follow the route of having, say, a bureaucracy set up to adjust. So given that it's a private member's bill and we're working without a royal recommendation, we adopted the route we did to allow for small claims court action if the airlines don't comply on their own—which I think they will actually do.

But when we checked into this further, we found out this is exactly what's working in the European Union. That's the interesting part of it. The group that did the study in Europe looked at the transportation agencies in Belgium and France and all the different components in the European Union and they found that at the end of the day, it was EU claims and the small claims courts that are getting these settlements, and not the transportation agencies that they initially thought would be the bodies to do it.

Hon. Joseph Volpe: Mr. Maloway, just briefly, before I hand off to Mr. Dhaliwal, you're aware that Toronto is on the same latitude as Florence, Italy, and there are a lot of American states, as well as Canadian provinces, that fall well below Scotland and England on the latitude.

The Chair: Mr. Dhaliwal, you have one minute.

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

Thanks, Mr. Maloway.

I also hear from consumers out there that we need some kind of legislation or regulations. The airlines have already submitted those binding rules to the CTA, and you are saying they don't go far enough.

What would you like to see the airlines do so that we wouldn't need a bill like this, or do you still feel that we need a bill irrespective of what the airlines do?

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

The airlines simply bought time. They were facing the resolution by Mr. Byrne in the House, the unanimous resolution, and they were looking at probably having a bill brought in by the government. So in order to avoid that, they agreed with the minister to bring in their flights rights. They didn't follow flights rights. Now when they see a bill actually appear, they have tried to get the flights rights into their tariffs.

First of all, I don't know that they've even actually done it.

I mean, has anybody here been on the Air Canada website lately, or any of the websites lately, to get in and look at that 115-page—

Mr. Sukh Dhaliwal: But if they have done it, do you still need a bill like this?

Mr. Jim Maloway: I'm sorry?

Mr. Sukh Dhaliwal: If they have already done it in their tariffs, do you still feel that we need a bill?

Mr. Jim Maloway: Absolutely. because—

The Chair: I'm going to stop it there and go to Mr. Gaudet.

[*Translation*]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chair.

Mr. Maloway, I have two examples to give you. I have travelled a great deal over the past 30 years. The first time that I went to Jamaica, the aircraft had been overbooked. It was an Air Canada flight. For those who were unable to take the flight, the company paid for our stay at a hotel, our supper and compensation in the amount of \$200 per person. The return trip to and from the hotel was also the responsibility of Air Canada.

This happened to me a second time not very long ago. At the time, I was not a member of the House of Commons. It also happened to me again recently when I went out west with the Standing Committee on Agriculture and Agri-Food to meet with provincial representatives from British Columbia, Alberta, Manitoba and Saskatchewan. I left Montreal at 9 a.m. for a trip that was to last 8 hours. It took me 18 hours to get to Kelowna, British Columbia. I waited 4 hours in Montreal because Air Canada did not have the right aircraft. In Toronto, I waited another 4 hours. In Vancouver, the wait was 2 hours.

What penalty would Air Canada have paid in a case like that, according to your explanation? According to your bill, what would the penalty have been?

[*English*]

Mr. Jim Maloway: As is done in Europe, the bill would cover meal vouchers after two-hour delays. So if the airline is late two hours, under the flights rights, they are agreeing that four hours is the appropriate amount. We're saying two hours.

If I might deal with Mr. Dhaliwal's question concerning flights rights, the flights rights agreement applies only to those four airlines that signed on. There are no penalties. So if you are flying with any other airline besides Air Canada, Jazz, WestJet, or Air Transat, you are not covered at all. If you happen to get on an American carrier, a foreign carrier, or any other Canadian carrier, good luck, no coverage.

But what is the coverage they are giving you? They don't follow what they promise to give you anyway. I don't know of anybody who can find anything on their tariffs. Go and try it—and you guys are the more experienced travellers. How is the average member of the public supposed to know what's going on with the Air Canada tariffs? There are 115 pages on a website somewhere. And you're supposed to be able to read that and understand it while you're stuck on a tarmac? Good luck.

But sir, yes, two hours is the rule for flight delays.

• (1620)

[*Translation*]

Mr. Roger Gaudet: I will continue with my question.

In your opinion, who will pay these penalties? I get the feeling that, to cover these amounts, I will have to pay \$1,000 instead of \$600 for a flight from Montreal to Vancouver. Someone will have to pay for all of this. I would be very surprised if the air carrier ran a deficit because of a delay. It could be caused by the delay of another flight, for example. If we are talking about \$1 million in penalties per year, someone will have to pay the bill, and it is quite likely to be the consumer. We want to protect consumers, but in fact, it will cost them more. You will have to explain to me how your bill will not penalize consumers.

[English]

Mr. Jim Maloway: You have to look at Air Canada as an airline that operates in Europe. They fly a lot of flights to Europe. So I ask you this: why should the airline be giving a certain amount of benefits when you fly in Europe, and then when you get home you don't have those benefits? It's all one airline. It's all one cost structure. In effect, you're subsidizing the meal vouchers for people in Europe, who are getting them after only two hours. It's about time you got the same treatment on your airline that they are providing to their customers in the European environment.

It's as simple as that. This consumer movement for air passenger rights is not going to stop just because this bill makes it or doesn't make it. We have organizations in the United States that have bills before Congress right now, and they're going to keep fighting until they get what we're finding in the European environment. Europe sets the standard. It's incumbent on us to follow it, in my opinion.

The Chair: Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Mr. Maloway, I didn't hear an answer to Ms. Hoepfner's question on your expertise and where it comes from. Do you have any kind of education on this, any training or previous employment to explain the knowledge you have about Air Canada? I haven't heard that, and I'd like to know where you get your information. It's not exactly identical to the information I've heard from Air Canada, and that's why I'm wondering.

Mr. Jim Maloway: Mr. Chairman, that has to be one of the craziest questions I have heard in my 24 years in political life. People bring private member's bills before this House. Some members have 20 bills. I have one bill.

Mr. Brian Jean: Mr. Maloway, you have given us evidence today about Air Canada's customs and practices and what they do and don't do. That's what I am asking about. Where did you find this information? I don't see it on any website.

I've been in this role for over three years, and I've never heard this type of information, except from you. That's why I am asking where you got this information from. I have other questions. But where did you get this information from? Did you hear about it? Is it hearsay?

Mr. Jim Maloway: Let's take this as an example. Only two weeks ago, flight 32 from Beijing to Toronto diverted to Ottawa for seven and one half hours. That is available to the honourable member. If he'd take a minute and check Flight Tracker, he could track flights anywhere in the world.

Clearly, if he wants to do this type—

Mr. Brian Jean: I'm aware of that, Mr. Maloway. I'm talking about where they're overbooking flights, etc., and information like that. You have provided it to the committee today, and I'm just wondering where you got that information.

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

The fact is that people contact me all the time. There was a national television show last night on CBC that dealt with the Cubana flight and the flight to New Zealand last year. All that information came through my office. People are contacting me on a

daily basis, writing me letters, because they're not getting any action from you and your government.

• (1625)

Mr. Brian Jean: Thank you, Mr. Maloway.

Will you agree that the average distance of flights in Canada is much different than the average distance in, for instance, Europe? You get on a plane in Vancouver, and four hours later in Ottawa, or five hours later in Montreal, the weather has changed. In Europe, though, you can get on a flight in London and land in Paris 40 minutes later.

Is that a fair comment, that it's—

Mr. Jim Maloway: Mr. Chairman, as I said before, if the member would read the bill, he would find it has the same extraordinary circumstance exclusion that the European legislation has: it excludes weather.

Why does the member keep wanting to talk about weather? It's because his friends in Air Canada and the airline lobby have put these ideas in his head, and he just can't get beyond one or two—

The Chair: Mr. Watson, on a point of order.

Mr. Jeff Watson (Essex, CPC): Mr. Chair, I would like some direction for the witness to at least speak with a certain amount of respect for members around the table. We've had the castigation about whether questions are the craziest he's ever heard, and other things like that.

You know, there's a certain amount of good faith in terms of the line of questioning and wanting to get answers. We don't need insults back in the opposite direction.

Mr. Chairman, I'd like some direction for the witness to adhere to a reasonable standard.

For the member who is visiting this committee as a witness, I would add that this is a very collegial committee. We have a certain amount of respect, member to member, across the table. That has been the *modus operandi* for this committee. It has been a productive committee as a result. We don't need that poisoning of the well today.

The Chair: Mr. Maloway, on the same point of order.

Mr. Jim Maloway: Thank you, Mr. Chairman. I want to apologize to the member and all of the members if they took offence. It just seems to me that I can—

The Chair: I'll stop you there. We'll just say that the point of order has been dealt with. We are running out of time.

Mr. Brian Jean: Mr. Maloway, my question is specifically in relation to population densities in Canada. As Mr. Bevington can tell you, we have one of the lowest population densities in the world—I think it's equal to Australia's—at somewhere around five people per square mile. It's obviously much different in Europe, as are the distances between the capitals. I was trying to get that on the record.

I'd like any time I have left to go to Ms. Brown.

The Chair: Ms. Brown, you have a minute and a half.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, Mr. Chair. I'll try to be quick.

I too want to comment on the geography of Europe. I've done a fair bit of travel there, and it's significantly different from what we have in Canada.

My question is a little different, Mr. Maloway. Would you agree that businesses have to remain successful in order to survive?

Mr. Jim Maloway: Sure.

Ms. Lois Brown: Thank you.

As a person who has owned a business, been in business for a number of years, and used air service regularly, I'm a person who knows that there "ain't no free lunch". If there is a cost, someone has to pay it.

You talked about subrogation—I'm sorry, I'm not familiar with the word, and I'll have to get my dictionary out—but fundamentally you're saying that the insurance companies will find somebody else to pay. As a business person, I know that if the costs increase to the airlines, then I, as a consumer, am going to see significant increases in costs for my travel, because somebody has to pay the bill.

Effectively you're saying that all of us are going to have to share that responsibility. Air Canada is a publicly traded company. On the stock market, it means that my stock is going to be worth less if I own shares in Air Canada or WestJet. My shares are likely to go down....

How is this going to help business in the long run?

The Chair: I have to ask that the answer be very brief.

Mr. Jim Maloway: I only hope you were as concerned when the airline was paying its chief executive officer \$27 million. As a matter of fact, I think \$27 million is low; I believe he was getting \$41 million.

You can pay a lot of compensation with \$27 million or \$41 million.

Ms. Lois Brown: Well, I'm concerned that the consumer is going to bear the brunt

The Chair: I will thank our witness for being here.

We're going to take a two-minute break and bring forward our next group of witnesses.

Thank you, Mr. Maloway.

• _____ (Pause) _____

•
• (1630)

The Chair: Welcome back to part two.

Joining us at the table now, from the National Airlines Council of Canada, are George Petsikas, president, and Brigitte Hébert, director.

Welcome. You've obviously heard some of the discussion.

Before I open, I have a point of order by Mr. Volpe.

Hon. Joseph Volpe: Some people took some offence to the question I asked Mr. Maloway earlier on about procedures in committee.

An hon. member: Being held under oath.

Hon. Joseph Volpe: But I think that's something that applies to all witnesses.

Rather than offend anybody who's coming before us, I just wondered whether you, Mr. Chairman, took my question in the appropriate procedural fashion in which it was intended.

An hon. member: All witnesses are under oath.

• (1635)

The Chair: All witnesses are expected to tell the truth when they come.

Hon. Joseph Volpe: Thank you.

The Chair: Thank you.

Please begin. Welcome.

Mr. George Petsikas (President, National Airlines Council of Canada): Thank you very much, Mr. Chairman and honourable members. We're very pleased to be here today to have a chance to comment on Bill C-310.

It was my intention to allow my colleague Brigitte Hébert, director of operations of the NACC, to open with a 10-minute statement. She'll do that, but with your indulgence, I'd like to take the opportunity to add some facts to the debate that has begun here on a specific issue by the previous witness, and that would be concerning Air Canada flight 32 from Beijing to Toronto. Let me take just a few minutes to clear up what happened in that particular case. Then we'll move on to our comments and, of course, I'll be happy to take your questions.

Air Canada flight 32 was inbound to Toronto to land. Nav Canada, because of inclement weather conditions, shut down a runway on which it was supposed to land. It could not land on the other existing runways at Pearson, and as such circled in an attempt to at least wait for conditions to improve. They did not.

The captain therefore made the decision, in consideration of the safety of all aboard, of course, to head to his alternate, which was Ottawa, and to land. Ottawa of course accepted the flight.

The problem with Ottawa is that Air Canada doesn't operate 777s, the largest aircraft in their fleet, into and out of Ottawa. As such, they did not have on that night the ground equipment necessary to tow the aircraft in and out of the gate. So the aircraft had to make some special manoeuvres to sidle up to the gate, if you will. That took a little bit of time. They were able to get some air stairs and get the passengers out.

The passengers had to clear customs, as per Canadian law. Customs officials were not expecting that flight at that time of day. They don't usually handle flights that big with that number of people coming off at the same time. They had to scramble to get people to get those people cleared. So there were additional delays as a result of customs clearance procedures.

Once cleared, those passengers were offered coupons for meals and beverages. Air Canada was able to rebook at least 100 of those passengers onto earlier flights departing from Ottawa, on regularly scheduled flights from Ottawa to Toronto, including a group of 40 who were connecting on a flight to Buenos Aires. Air Canada held the flight leaving from Toronto to Buenos Aires in order to ensure that these passengers made their connection. The rest of the passengers were able to fly back on the 777. However, because of flight duty time restrictions, the captain and the co-pilot who brought the aircraft in from Beijing had to basically desist for the rest of the day, because they were past their duty time. In the interest of safety, they could no longer operate. Another crew was brought in. That plane eventually got back to Toronto.

Those are the facts of Air Canada flight 32. I just wanted to put them on the record.

I pass the floor now to my colleague Brigitte.

[*Translation*]

Ms. Brigitte Hébert (Director, National Airlines Council of Canada): Thank you, honourable members of the committee, for the opportunity to appear today on private member's Bill C-310, which, as you will hear, contains measures that are deeply troubling not only to air carriers, but also to consumers and Canadian communities.

[*English*]

We are here today on behalf of the National Airlines Council of Canada, which is an industry association comprised of Canada's four largest passenger airlines—Air Canada, WestJet, Air Transat, and Jazz Air LP. Together the member carriers of the NACC directly employ 34,000 Canadians and directly serve 59 Canadian communities. We operate on average 1,800 flights a day, or 657,000 annually. We carry 126,000 passengers a day, roughly the entire population of Kelowna, B.C., or 46 million annually, about 1.36 times the current population of Canada.

This massive undertaking occurs each day, despite the best that Canada's climate can throw at us, and within the regulatory and security frameworks of the Government of Canada and the international jurisdictions we serve. Most importantly, it all takes place safely.

Inevitably, when dealing with that volume of passenger traffic there are going to be instances where passenger inconvenience, either beyond or within the control of the airline, is bound to occur. Airlines work hard to limit such instances, but like any other customer service industry, we are not perfect. Mistakes happen, and when they do, passengers should have rights, and they should have effective recourse if those rights are not respected.

NACC's member airlines understand this and have adopted into our tariffs the provisions of the flight rights program announced last year by Transport Canada. Let it be understood by members of this committee that this is a significant step. It is a formal, legal change to the contract between us, as carriers, and the customers we serve.

If we fail to live up to those conditions, the Canadian Transportation Agency has the power to investigate the circumstances of our failure and determine individually and according to circumstance the appropriate restitution or compensation due.

● (1640)

[*Translation*]

Furthermore, I would like to restate a commitment we made when Mr. Byrne's original motion on passenger rights was adopted by the House of Commons.

NACC urges parliamentarians, through this committee, to undertake a serious and detailed study of the public policy issues around passenger service in Canada—including an evaluation of airlines, Canada's airports, federal institutions and bodies and the regulatory regimes that affect international destinations served directly from Canada.

[*English*]

We want to find solutions. We want to move our passengers more efficiently. We welcome your interest, and in the context of a sincere effort to help our customers, we welcome your scrutiny.

That brings us to the reason we are here today, a discussion of private member's bill C-310. Unfortunately, Bill C-310 is not going to help passengers in Canada. Bill C-310 is not about rights for passengers and it does not aspire to improving the travel experience or growing the travel options of Canadians.

There is not one single provision contained in Bill C-310 that would in any way serve to actually reduce instances of passenger inconvenience if the legislation were adopted.

Bill C-310's only aspiration is to penalize airlines in numerous instances for situations that are clearly far beyond the control of even the most conscientious carrier.

[*Translation*]

And let there be no mistake, the penalties proposed in Bill C-310 are very severe. If passed, this bill will hurt airlines operating in Canada, profoundly affect the cost structure of our businesses, force dramatic price increases on Canadian consumers and lead directly to service reductions, not only in Canada's busiest airports, but also in rural communities across Canada—specifically, airport communities in Atlantic Canada, northern Canada and in rural northern Quebec—that are dependant on reliable air service to provide a business and social link to the rest of the country.

[*English*]

Firstly, because Bill C-310 employs Canada's court system as a dispute-resolution mechanism, and because imprecise terms are sprinkled through virtually every major provision of the bill, no one can determine with any certainty at this point how Bill C-310 will actually be applied, and no one will know until a series of protracted and costly legal battles takes place.

[Translation]

Undoubtedly you will hear, or have already heard, that this language is based on European legislation—an assertion which is deeply troubling—when we know that the courts of EU member states are so confused by the wording and intent of the regulations on which Bill C-310 is based, that they have—after numerous protracted legal proceedings—referred questions to the Court of Justice of the European Communities. Essentially, they have thrown up their hands.

[English]

Surely these are not problems Canada is seeking to replicate in the creation of our own framework for passenger rights.

As was stated earlier, air carriers are, for whatever reason, the exclusive focus of this bill. Federal agencies or entities, such as Nav Canada, CATSA, CBSA, and Canada's airport authorities are not contemplated, and no consideration is given to any foreign entity or legal framework despite the complex and vital roles those organizations play in every trip Canadian passengers make.

By ignoring these obvious connections, Bill C-310 fails to address in any meaningful way the problems it identifies, instead leaving it to airlines to deal with circumstances beyond their control or face excessive penalties.

But more troubling is that Bill C-310 doesn't provide any allowance in key clauses for the most obvious and frequent culprit in airline disruptions. Bill C-310 makes airlines responsible for the weather.

For instance, in clause 5, in case of delay, airlines must provide a total of two phone calls, e-mails, faxes, or telex for each passenger, as well as meals and hotel accommodation if required. If the airline fails to comply with any of these obligations, it must pay each affected passenger \$500. If a flight is delayed more than five hours, the airline must also offer to reimburse all airfares.

• (1645)

[Translation]

Clause 5 offers no exemption—even in the form of loose “extraordinary circumstances” language—from obligations if the delay is caused by a weather event or a safety concern. Clearly, an airline is not doing anything wrong if snowfall in Gander or Trois-Rivières is preventing the on-time departure of an aircraft. But the airline is liable.

[English]

There are clearly some serious problems with Bill C-310, but its most egregious flaw is its failure to consider the safety of passengers and crews. In numerous instances Bill C-310 discourages and penalizes airlines for ensuring the safe operation of a plane, imposing substantial financial liability on carriers when flights are cancelled or delayed for safety reasons. It is counterintuitive to the promotion of aviation safety for the Government of Canada to implement a system of penalties to be imposed on airlines precisely because they will not operate in instances when public safety could be jeopardized.

Throughout the entirety of Canada's regulatory framework governing aviation, safety is the top priority. In adopting this legislation, members would in effect undo that principle. Passenger convenience is of greater concern than public safety in the drafting of private member's bill C-310, and that cannot be acceptable.

[Translation]

These are our top-line concerns with Bill C-310, but by no means is my presentation here today comprehensive in terms of the significant problems legislation like Bill C-310 would create for commercial aviation in Canada and the significant expense and inconvenience it would create for the public at large. I could quite literally go on for hours, but I'm sure members have questions.

Before I close, I would like to address the assertion that Bill C-310 can somehow be quickly amended to deal with its deficiencies. That is simply not practical.

[English]

The bill's reliance on punitive measures, its adoption of open-ended definitions, and its complete exclusion of all other aspects of the aviation supply chain mean it is fundamentally flawed. Bill C-310 requires complete redrafting of almost every clause contained in the legislation as proposed. Undertaking the work to do so would require a comprehensive review of the entirety of the aviation service and value chain to ensure that committee members can make the necessary amendments without unduly negatively affecting the state of Canadian aviation.

In summary, Bill C-310 does nothing to improve the passenger experience and has the potential for wreaking havoc on industry costs and the viability of air services. It needs to be withdrawn and replaced with a new initiative, which the NAC would wholly support and which would be based on a balanced, reasoned approach that considers the concerns expressed today and the totality of Canada's aviation system.

[Translation]

We hope that this cooperative approach is the path this committee chooses to follow, ultimately to the benefit of all Canadians. Bill C-310, unfortunately, benefits no one.

Thank you for your time.

[English]

The Chair: Thank you very much.

Mr. Volpe.

Hon. Joseph Volpe: Mr. Chairman, I wonder whether Mr. Petsikas would tell us whether this list he provided to us, which includes at least eight other aviation councils...

Are they part of your association? You provided us with a list of people whom we might want to hear from—for example, Air India, Japan Airlines, Icelandic.

Do you represent them too?

Mr. George Petsikas: No, no, these are independent associations.

Hon. Joseph Volpe: You just thought it would be good for us to hear them.

Mr. George Petsikas: Absolutely. These are associations that have expressed independently their concern.

Hon. Joseph Volpe: To you.

Mr. George Petsikas: Well, to us and on the record as well.

Hon. Joseph Volpe: I'm wondering if some of the questions Mr. Maloway presented are ones you're prepared to answer. For example, how much did any of the Canadian airlines pay in Europe as a result of this bill or its brother or sister bill in Europe from 1991 on for denial of boarding or for inconvenience after 2005? Do you have that information?

Mr. George Petsikas: I don't have it and I'm not prepared to divulge that on behalf of individual member carriers, Mr. Volpe.

Hon. Joseph Volpe: Thank you. All I needed to know is either you don't have it or you don't want to provide it.

You're aware of extraordinary circumstances exclusion. Do you accept that might be something the airlines could use as a defence?

•(1650)

Mr. George Petsikas: I accept, sir, that it is a defence in the bill. I don't accept that it's going to be an effective defence. I don't accept that it's going to be—

Hon. Joseph Volpe: You mean somebody might actually get an answer that you wouldn't agree with.

Mr. George Petsikas: No, I mean effective in the sense that it provides absolutely no operational guidance to stakeholders who are subject to this bill and who are impacted by this bill. If I have—

Hon. Joseph Volpe: There was a question a few moments ago, Mr. Petsikas, about an alternative proposal, which was to put the charter, etc., in the tariff structure. You may recall—because we have nothing to hide here—that you came to visit me, along with a couple of representatives of other airlines, and you made that proposal to me.

Mr. George Petsikas: Yes, I did.

Hon. Joseph Volpe: You asked if the committee would accept it if we put these in the tariff. I asked you how long it would take you to do that.

Mr. George Petsikas: We did it, sir, at the end of April.

Hon. Joseph Volpe: You said it would be something like about two weeks, or maybe a little longer; maybe it would take you about a month. I'm not being sarcastic; I'm just giving you a sense that people were trying to be flexible.

Then you and I had a conversation last June. You said, nah, that's a little too tough; I think we're going to tough this out; we're going to tough this out because we don't like the legislation; we'll wait and see if the government lasts, and fine, it'll die on the order paper.

This is for a private member's bill—for a private member's bill, Mr. Petsikas. How come you didn't put it in your tariff structure?

Mr. George Petsikas: Mr. Volpe, I will correct the record right now. The record is that we filed our amendments to our tariffs last spring, sir, at the end of April. Your facts are incorrect, sir. We have filed them with the Canadian Transportation Agency. It took a little longer, sometimes, than we thought it would, because unfortunately the CTA does have its rules of procedures and needs advance notice.

Those were filed, Mr. Volpe.

Hon. Joseph Volpe: You only filed them in the spring. That was eight months after you told me it was going to take two weeks.

Mr. George Petsikas: Mr. Volpe, it didn't take eight months after I told you that, sir. Please, I would ask you to—

Hon. Joseph Volpe: Let's go back to some of the facts then. Let's go to the issue right now in your presentation that this is not going to do anything for passengers, for consumers.

The government on this side here is trumpeting crime and justice legislation. It's all deterrent. Deterrent is going to modify behaviour.

Now, that's a solid way of thinking of things. What would be wrong with the concept of deterrent? In other words, that would be telling you and your members that if you don't provide the service someone expects when they pay money, you're likely to be fined. Notice I said "likely". It's not that you are going to be, but that you are likely to be fined.

Is it so wrong for someone to suggest that you could have liability if you don't provide the service that you took money for?

Mr. George Petsikas: May I answer the question, sir?

Hon. Joseph Volpe: Is it wrong or isn't it? All you have to do is say yes or no.

Mr. George Petsikas: May I answer the question?

Hon. Joseph Volpe: Please do.

Mr. George Petsikas: Mr. Volpe, there is nothing wrong at all with it being said that—

Hon. Joseph Volpe: Okay, great.

Mr. George Petsikas: No, sir, just a second. May I answer the question?

Hon. Joseph Volpe: You just did. You just did, because the next question is—

The Chair: I will ask him to expand a little bit—

Hon. Joseph Volpe: Well, I'm going to give him a chance to expand.

For example, you have to build that answer; into that answer you have to build—

Mr. George Petsikas: The point we're trying to make, Mr. Volpe....

With respect, Mr. Volpe—

The Chair: Mr. Watson, go ahead.

Mr. Jeff Watson: On a point of order, Mr. Chair, I believe you directed the witness to give an expanded answer and Mr. Volpe cut in again.

The Chair: I did, and I'm going to ask him to expand and answer the question.

Then I'll get back to Mr. Volpe.

Hon. Joseph Volpe: You're taking up valuable time, Mr. Petsikas.

Mr. George Petsikas: Sir, I'd like to answer your questions, if you'd give me the chance.

Hon. Joseph Volpe: I'm interested in getting to the financial model—

The Chair: Mr. Volpe, please.

Hon. Joseph Volpe: —taking into account the liabilities, which you are not absorbing.

The Chair: Order.

Mr. Watson on a point of order.

Mr. Jeff Watson: For the love of God—

Hon. Joseph Volpe: This is a secular environment, Mr. Watson.

Mr. Jeff Watson: —you've already directed the witnesses to speak. Mr. Volpe is cutting in once again.

The Chair: I'm going to ask for no interruptions so that Mr. Petsikas can answer the question.

Mr. George Petsikas: Thank you very much, Mr. Chairman.

We have said very clearly the problem here is that we are the ones being penalized. But the problem is that this bill does not take into account the aviation supply chain that, for example, Monsieur Laframboise just a few minutes ago alluded to in his case about Cubana, when he said it's not necessarily about the airline, there may be other factors involved. He mentioned the airport authorities, but it goes beyond just the airport authorities. It goes to Nav Canada.

Look what I just talked about, about Air Canada flight 32. What happened to Air Canada flight 32 and why couldn't it land on time, sir?

Hon. Joseph Volpe: I won't lecture you if you won't lecture me, so just answer my question.

•(1655)

Mr. George Petsikas: Well, again, I couldn't finish the answer, sir.

Hon. Joseph Volpe: Are you in a position where you abide by the European legislation that purports to do the same thing? Are your members and your council willing to fly into Europe under these kinds of regulations, under this type of judicial system?

Mr. George Petsikas: Are we willing to fly to Europe?

Hon. Joseph Volpe: Yes, do you or don't you?

Mr. George Petsikas: Well, we fly to Europe. Air Canada and Air Transat fly to Europe.

Hon. Joseph Volpe: So it's not a problem for you in Europe.

Mr. George Petsikas: Well, no, I would point out that the European legislation is not a carbon copy of what we've done here, either.

Hon. Joseph Volpe: Do you want to tell us what the differences are?

Mr. George Petsikas: Mr. Maloway had to pick and choose a few things, and I would suggest that the ramp delay issue and that

liability, which is a major one in this bill, is not existent in the European regulations. So right there we don't have to deal with that.

Hon. Joseph Volpe: So you're going to give us your amendments to this bill—

Mr. George Petsikas: What we're going to say, sir, is that this bill is fundamentally flawed because it failed to take into account—

Hon. Joseph Volpe: Why not give us the amendments? Give us some amendments.

The Chair: Thank you.

I'm going to go to Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Thank you, Mr. Chair.

Thank you, Mr. Petsikas and Ms. Hébert.

Your document is clear. Indeed, this is a private bill that, in my opinion, will not solve what the sponsor is seeking to solve, and you have explained that clearly. The Cubana situation is a very problematic one, and I know that this bill will not solve it. The problems Cubana experienced with the Ottawa airport authority, the paid and unpaid fees and so forth, none of those is solved by the bill.

There are other situations, and I would like you to give us some examples. I know there are situations that are beyond your control, such as de-icing aircraft. You mentioned NAV Canada and CATSA. Give us some examples of delays for which you are not responsible.

Mr. George Petsikas: Thank you for your question.

You give several examples. There was the NAV Canada decision concerning Air Canada flight 32. Furthermore, the work of the customs authorities has an impact on the passenger's experience. There is de-icing, which is very important. Snow removal from airport runways has a major impact on moving aircraft prior to takeoff. As you know, de-icing is basically a matter of air safety. One of our concerns about this bill is its potential impact on decisions made solely for reasons of air safety.

Imagine an aircraft commander who knows that it will take approximately an hour and a half to de-ice his Boeing 777. After 60 minutes, the time has come when it is up to us to decide whether to continue de-icing or not. Personally, I would trust the commander who has 30 years of experience and whose primary concern is the optimal operation of his aircraft and the safety of his crew and passengers.

After 61 minutes, someone might tell the commander that there are other considerations. The company could be severely penalized if the commander did not return immediately to the gate because one of the passengers had had enough. They could demand that the commander exit the takeoff line to go to a gate that is perhaps not even available. We know very well how it works when there is a major snowstorm. We have no idea how long it could take to get back into the lineup after losing the aircraft's initial place. It could take a very long time. So this could needlessly add another three, four or even five hours to the delay. Ultimately, because of duty restrictions, the flight would have to be cancelled.

This puts us in a bad position on many levels. Why should the ability to make the final decision be taken away from the commander? If there is no unnecessary risk or danger to passenger safety, the aircraft could return to the gate. However, that has nothing to do with safety, because it is a matter of the smooth operation of a flight, which would have an impact on 300 other people, who may not necessarily want to get off the aircraft after 61 minutes. So why does this measure exist?

The Europeans have realized that this is absurd. They have never implemented this kind of legislation, even if some of their airports are the busiest in the world. For example, Heathrow airport got 5 cm of snow last year. It was total chaos for three days. I would like to point out that clause 3 of this bill would make us liable for that. In a situation similar to that of Heathrow, companies such as Air Canada or Air Transat would be forced to pay compensation for such a delay, even if it occurred in London, whereas British, German and Dutch airlines would not. Canada would be the only country in the world to be penalized. It makes absolutely no sense.

I truly believe that we must get together in order to better understand the system.

● (1700)

[English]

The Chair: Mr. Bevington.

Mr. Dennis Bevington: Thank you, Mr. Chair.

My thanks to the witnesses for coming here today. Certainly, I believe that we could devote a lot more time to considering this bill, and I think that's what we're concerned about.

Would you think that this bill could be improved by detailing some of the extraordinary circumstances, whether it's weather, air field issues, the relationship of the airline companies to the airfield itself, or operational aspects like the availability of spaces in the de-icing line?

Having come out of Edmonton in the middle of winter and been stuck in a de-icing line for two hours, I know that it's not an airline's responsibility. So there are some equipment issues. Where exactly does the airline assume responsibility for an airplane's mechanical condition? Would there be a point at which that mechanical responsibility is associated with delays or cancellations?

Then there are the staffing issues. Sometimes they're out of your control. If you have a plane stuck in Vancouver, and the replacement crew is on that flight, and you have another flight in Edmonton, you

have a problem that's out of your control. There are also regulatory issues.

Can you add to that list of things the extraordinary circumstances...that might be things that we could bring into the bill that would more clearly outline what is your responsibility and what is not?

Mr. George Petsikas: Extraordinary circumstances represent just one of the problems. It's one of the outs that's in the bill, but only in respect to cancellations. In the rest of the bill, there are ambiguous concepts such as "undue risk" that are supposed to define whether we're going to be liable for ramp delays.

We've talked about significant impact and what happens when we have to inform travellers that their plans will have to be changed. I'll say this clearly for the record: the National Airlines Council of Canada is not against a reasonable, balanced consumer protection framework. In fact, we support it. We want to do what we can to work with our partners in the aviation supply chain to improve the customer experience. But if we started with what you're proposing, we would have to rewrite the whole bill from A to Z.

Mr. Dennis Bevington: If we started with your proposal, we'd have to get the agreement of practically all the airline associations flying in Canada. That's a difficult task. You've given us a list of a whole bunch of different organizations representing the companies that fly in Canada. Don't you see that legislation will give surety to all the companies that they're on a level playing field and that everyone is under the same rules?

What are the good rules that should be included? The extraordinary circumstances issue should be attached to delay. This way you have some assurance that you are not responsible for delays if they're out of your control. That's what we're looking for in making amendments to this bill. We are trying to provide a level playing field across the whole industry that will result in competitive airlines with the best service and the highest probability of success. That is the competitive model that I'm sure all your members want to adopt.

● (1705)

Mr. George Petsikas: Sir, we are saying this: this bill has unfortunately not taken into account the realities of the air transport supply chain. It introduces concepts like extraordinary circumstances, which, as a lawyer, I can tell you, if you put 20 lawyers into a room and tell them to define those circumstances, you will get 20 different definitions. It establishes the courts as the final arbiters of what all of this means. We won't even know what our liabilities are under this legislation until the courts get through a lot of these things in many years' time.

The bottom line, or all that we're saying, is that this bill, unfortunately, establishes a culture of blame. It establishes a culture of penalizing. It does not come to grips with the reality of the air transport supply chain, and it does nothing to improve the customer experience. What we are saying is that we are willing to start discussions on a framework that does recognize all of the points that I'm telling you about. This doesn't do it. I can't sit here and say, we'll figure out a way to finagle a little bit the issue of extraordinary circumstances, undue risk, and all of those sorts of thing; but in the end, all that it's going to do is to make lawyers very happy, because that's what it has done in Europe.

Remember that while we've held up the European example here as a panacea, there are in fact many concerns right now in Europe with respect to how extraordinary circumstances, and a lot of other provisions, have been interpreted.

Mr. Dennis Bevington: You mentioned Europe, but there have only been two cases in front of the courts. Is that not correct?

Mr. George Petsikas: No, sir. You're referring to the validity itself of the E.U. directive. I believe that IATA—and I'm not sure who else—challenged the validity of the directive per se. But there have been many cases brought to the courts by consumers who have asked, well, how do you define a delay? Does an extremely long delay also become a cancellation?

Mr. Dennis Bevington: What's the aviation industry worth in Europe?

The Chair: I have to stop there and go to Ms. Brown.

Ms. Lois Brown: Mr. Petsikas, I just want to correct the record, if I may. If you get 20 lawyers in a room, you'll get 22 different opinions.

Mr. George Petsikas: I take your point.

Ms. Lois Brown: I just wondered if you could clarify for us how the voluntary flight rights are working for the industry. Maybe you can talk about them.

I'm sharing my time with Mr. Mayes, so this has to be very short.

Mr. George Petsikas: Thank you for the question.

As I tried to explain, we have filed the amendments to our tariffs, which are the contract of carriage with the passenger. It's not as the previous witness said: the tariff is fully enforceable when we don't respect our obligations under the tariff. Any consumer can go to the CTA—which, as you know, is quasi-judicial body—and complain that we have not respected it. The CTA has a wide range of options, including enforcement options, available to it to get us to respect our tariffs.

So it is legally or contractually binding in that respect, and it has been there, I believe, since the end of last April. I'm afraid I don't have the exact date of our filings. It has been in immediate effect as far as domestic tariffs are concerned. Unfortunately, there has been a little bit of a technical hiccup with respect to our international tariffs, because the CTA is reviewing some issues with respect to international conventions and how they apply in regard to some other similar issues.

I can tell you that as members of the NACC, we will be embarking on a very comprehensive communications campaign in the very near

future to make sure people know this is there, because there's not much point to having these things here in some sort of document that nobody's ever heard of or understands. If you don't know it's there, then you can't use it. We want people to know it's there, and we want people to use their rights as we have proposed, because we think that's a reasonable way to go. And if we can't live up to those rights, then obviously the CTA should say, no, you have an obligation to do that.

These are the individual airlines, as you will understand, which the NACC is trying to coordinate, but it is each airline's call as to how they want people to go onto their websites and be able to access all of their customer service information and all of that. I hope very much that you'll be able to see that in the very near future. We are working on it with our communication subcommittee.

• (1710)

Ms. Lois Brown: So consumer protection does exist?

Mr. George Petsikas: Absolutely.

Ms. Lois Brown: Mr. Mayes.

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

I'd like to direct this question to Mr. Petsikas.

On flight 32, you went through the whole scenario of what happened there. I appreciate that, as it gave me a better appreciation of what did happen. But did the captain communicate all of those things to the passengers?

Mr. George Petsikas: Unfortunately, I can't tell you that, as I don't have that information. In fact, the information I have was given to me by my colleague from Air Canada just a few minutes before I sat down with you. So he may know that, but unfortunately, I don't have that information.

Mr. Colin Mayes: Okay. I just think it's important that they make that communication so the passengers know.

Other than Mr. Bevington, maybe, I probably fly the most of anyone sitting around this table. I do about 120 flights a year. I've been doing this for four years and I've only had one cancellation....

Well, you go direct.

Anyway, that works out to a quarter of 1%. Is that pretty close to what your average is, or am I just lucky?

Mr. George Petsikas: In terms of cancelled flights system-wide?

Mr. Colin Mayes: Yes.

Mr. George Petsikas: Oh. Well, you're probably lucky. I think that's a pretty good average.

I don't have the numbers system-wide, but I can tell you that cancellations are not as frequent as some of those supporting this bill will tell you.

It was suggested that it was done for purely commercial reasons. That's not the case.

Mr. Colin Mayes: You've been able to incorporate into your service model the provisions of "Flight Rights Canada", as you were talking about earlier in your submission. Would you say that the application of those recommendations has basically made the Canadian airlines better airlines?

Mr. George Petsikas: I think we've put some serious proposals out there, and we say we are going to abide by the standards we've given ourselves.

Reference was made to the 90-minute commitment. That is a real commitment. I can tell you that it's half the time currently being debated right now in the Senate of the United States, where, as you know, they have a more serious problem when it comes to these sorts of things due to the obvious nature of the beast down there with the huge congestion they have at some of their airports. And when their system goes down, it could create some major delays.

But we have said it should be 90 minutes where circumstances permit. That clearly ensures that the captain has the last word. And again, we're not in the business, despite what others may say, of "warehousing" passengers, as I've unfortunately heard said, which I think is a little demeaning to our customers.

Mr. Colin Mayes: To Madam Hébert, with regard to bookings, it was suggested by the earlier witness that you basically make bookings and then if somebody comes along with more money, you kick one off and grab another one. In other words, you overbook in the hope you'll get a better price.

That isn't a common practice. In fact, that probably isn't a practice at all. Is that correct?

Ms. Brigitte Hébert: I haven't heard of that, no.

Mr. Colin Mayes: No. Ultimately, if there's an overbooking, it could be because of somebody whom you've told to come to the airport to see if they can get a seat, and if possible, somebody might want to fly a little bit later and make that seat available for them.

Is that correct? Or do you overbook?

• (1715)

Mr. George Petsikas: No. An earlier reference was made to WestJet not overbooking. Air Transat doesn't overbook either. I'll leave it...

What we do is very simple. If there is a situation where somebody is not able to board as booked, we have in our tariffs very clear provisions regarding compensation. We ask for volunteers. When we have volunteers, they are compensated.

Unfortunately, when it might happen that the person may not be a volunteer and may have to be denied, well, clearly the compensation that's provided is a factor in that as well.

There's no way that somebody doesn't get on and is not currently compensated under our rules.

The Chair: Mr. Dhaliwal.

Mr. Sukh Dhaliwal: Thank you, but I'll let Gerry go first, Chair.

The Chair: Okay, for five minutes.

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

Thank you to our witnesses.

I note from your testimony before us that it seems your preoccupation is with the liabilities that you suggest are beyond your control, supply chain issues. You note that under the current provisions within Bill C-310 it's a bonanza for lawyers.

Let me ask you this. You seem to have a lot of respect for the Canadian Transportation Agency. It seems to be working out okay for you. It's a quasi-judicial body, with a vested interest and a competence in investigating and enforcing matters pertaining to commercial transportation issues.

Let me give you a suggestion and see how you respond. To prevent matters that are not in your control from being deemed your liability, how about actually having the Canadian Transportation Agency, a quasi-judicial body with competence in monitoring regulation pertaining to the commercial aviation industry, actually determining whether or not, on the balance of probabilities, it is indeed a commercial airline liability that created a particular delay or other inconvenience or a matter beyond their control?

One of the things suggested to us is that... We're frequent travellers, but it's not about us, it's about our constituents, it's about the travelling public that we hear from. We hear that often airlines will provide a mitigating circumstance to a failure to provide a customer service on an issue out of their control. At certain times, evidence is presented that suggests that maybe it was indeed in the airline's control, that it was a commercial decision.

Why not have the Canadian Transportation Agency be granted the authority to investigate and enforce these matters? Would you agree with that?

That's good transparency, in my opinion.

Mr. George Petsikas: I guess I'd ask you this: on the basis of what legislative framework?

Hon. Gerry Byrne: That's exactly the point: on the basis of the legislative framework that provides greater powers to the Canadian Transportation Agency, which is, as my friend Mr. Maloway pointed out, a royal recommendation. It requires the advancement of public money to be able to do so.

Let me suggest this to you. As an airline association, if the government, which was the body that was originally charged with the responsibility of providing increased consumer protection in the airline industry, came forward with a bill that suggested that not only a minimum standard of consumer protection be afforded to airline passengers but that the Canadian Transportation Agency—not courts, not lawyers, but people with competence to investigate and enforce infractions of that code—were given that power to provide such rulings in a timely manner, with a specific competence, would you agree with that legislation?

Mr. George Petsikas: Mr. Byrne, thank you for that.

If that takes place in the context of no Bill C-310, I'm going to tell you now that we're prepared to discuss any possible scenarios.

Hon. Gerry Byrne: You're prepared to discuss it—

Mr. George Petsikas: Absolutely.

Hon. Gerry Byrne: — but you're not prepared to commit to such a transparent, open, and accountable process.

Mr. George Petsikas: Well, sir, I can't speak on behalf of a specific proposal in that respect without, obviously, consulting our membership. I take your point here, and your suggestion, but I have to be able to speak on behalf of people, and I—

Hon. Gerry Byrne: Mr. Petsikas, that suggestion has been made. I met with your organizations and your members, and I raised it in the House countless times that the Canadian Transportation Agency, if it were granted the authority, the power to be able to investigate these matters, determine whether or not the liability was flowing to the airline or to a body outside of its direct influence, whether it be CATSA or the aerodrome authority itself....

That suggestion has been on the table. We are here today because it has been ignored.

• (1720)

Mr. George Petsikas: Mr. Byrne, if I may, if we're talking about a legislative regulatory framework that understands how the aviation supply system works, that takes away this culture of blame and penalization, that looks at real ways of improving the customer experience and improving customer protection and standards, and if that may involve a framework that involves the CTA—takes the courts out of it, takes legal uncertainty out of it—I can tell you we will be there and we will be discussing that very seriously, sir.

I'm saying that on the record now.

Hon. Gerry Byrne: Great. Well, that suggestion was made over a year ago. We'll certainly take you up on that.

The Chair: Thank you.

I'll go to Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Thank you, Mr. Chair.

I understand my colleagues. Some of them have taken a personal stand, like Mr. Maloway and Mr. Byrne, but there is something that bothers me and that I am wondering about. I want the people watching us to understand this clearly. I agree with you: if Bill C-310 is passed in its current form, all the blame will go to the airline companies, and you do not deserve that because there are other bodies in the system that create problems and yet they would not have to comply with the rules.

You referred to NAV Canada, the Canadian Air Transport Security Authority, or CATSA, the Canada Border Services Agency and airport authorities. These institutions are of paramount importance when it comes to passenger service. Am I wrong?

Mr. George Petsikas: You are absolutely right.

Mr. Mario Laframboise: If such a bill was ever passed, even if Transport Canada was the adjudicator, it would not change anything. The airline would be guilty and would have to pay. The bill could probably be amended by adding a clause, even if, legally, that would cause problems for the House's legal experts.

We could say that you are not responsible for the problems caused by NAV CANADA, CATSA, CBSA or airport authorities. If that exemption were added, given the agreement that you negotiated with the government, you could probably resolve the other issues amicably with your travellers. That is probably what you do now.

My colleagues need to understand that, by passing this bill, we would be making the airlines selling the plane tickets responsible. The problem is that they would be responsible for things they didn't do. If we don't sit down with all these people at the same table, even

if there is an exemption that says that airlines are not responsible for problems caused by airport authorities, the problem experienced by Cubana airlines will not be fixed. It will fix absolutely nothing. If this bill is passed, airlines will have to pay the price for problems caused by airport authorities or other stakeholders.

Have I understood the situation correctly?

Mr. George Petsikas: I think that you have fully understood what we are saying. During plane travel in Canada or abroad, there are many stakeholders. Everyone with a direct or indirect impact on the process needs to come together and talk about their responsibilities, their obligations and their potential roles.

I would like to add Transport Canada, which has a direct impact on everything that happens, particularly with regard to standards and hours of service. In order to establish a legislative or regulatory framework that makes sense, we must ensure that this discussion takes place. This was not done with regard to Bill C-310. That was a missed opportunity. That is why we are saying that things need to be done over again but in the right way. We are prepared to take part in that exercise and to have a serious discussion.

We need to take into consideration the factors that were mentioned earlier. Obviously, we cannot undermine security; nor must we try to pin the blame on anyone; we need to find a way to improve the consumer's experience and, if something is not working, try to provide them with fair and reasonable compensation, without costing the system a fortune. Unfortunately, that is not what we see here. I think that you have understood what is happening.

• (1725)

Mr. Mario Laframboise: Thank you.

[*English*]

The Chair: I have to say thank you there. We're just about out of time.

I have one question, and I've had it raised to me verbally more than in writing. Obviously, if the airlines get into a position where they're constantly being shut down because of weather—in particular I'm thinking of northern communities—how does that impact your decision as to whether you're going to continue to provide services there or not?

It bothers me a little bit, coming from a community that has lost air service. I know that once you lose it, you hardly ever have a chance to get it back.

Mr. George Petsikas: Mr. Chairman, you've hit on a very good point. We can't close our eyes to the reality that if we are going to move ahead with provisions like this, which can impose severe liabilities on air carriers because of weather, and in fact impose system costs in serving communities that, as you say, may be prone to adverse weather conditions on a fairly regular basis, clearly that adds cost to one's ability to serve them. It adds risk, it adds costs, and you have to look at it from that commercial perspective.

So, yes, unfortunately—certainly it's not something we like to go around saying—if this happens, then we have to consider that as another commercial risk in serving that community. That's something we don't want to do.

The Chair: Thank you.

With that, I'm going to thank our guests for being here.

I'm going to ask the committee to stay behind for two minutes. We have some subcommittee business to approve.

I am going to ask everyone else who is not involved in that to please clear the room as quickly as you can.

Again, thank you to our guests.

[Proceedings continue in camera]

[Public proceedings resume]

• (1735)

Mr. Dennis Bevington: Do we have to pass this?

The Chair: If it's by consensus, we're fine.

Mr. Volpe.

Hon. Joseph Volpe: My point of order is to the motion that I submitted to the clerk. I realize it didn't come 48 hours ahead of time, so my point of order is whether we prefer to discuss it now or do it when we next meet. We're supposed to next meet on Wednesday.

I don't know if you've distributed the motion, Madam Clerk.

The Chair: Do we need agreement to do that?

The Clerk of the Committee (Ms. Bonnie Charron): If you'd like to debate it, you can give notice.

Hon. Joseph Volpe: Yes, so just giving notice....

No, 48 hours is fine. I just raised it to see if there was a desire to debate. Seeing that the desire is deferred, in order to whip up enthusiasm, I said okay.

The Chair: Is that okay, then?

Hon. Joseph Volpe: You know, as Mr. Watson says, I'm one of those people who wants the committee to work.

The Chair: Absolutely.

Okay, then, I'm sure you'll submit it directly to the clerk on the 48-hour schedule.

Hon. Joseph Volpe: It has been done.

The Chair: For the first hour on Wednesday, we will meet with the subcommittee only.

The meeting is adjourned.

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