



House of Commons  
CANADA

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

---

TRAN • NUMBER 052 • 3rd SESSION • 40th PARLIAMENT

---

**EVIDENCE**

**Thursday, March 3, 2011**

—  
**Chair**

**Mr. Merv Tweed**



## Standing Committee on Transport, Infrastructure and Communities

Thursday, March 3, 2011

• (1535)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Good afternoon, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting 52. Orders of the day are pursuant to the order of reference of Wednesday, December 8, 2010, Bill C-33, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act.

Joining us by video conference from Corner Brook, Newfoundland and Labrador, representing the Federation of Canadian Municipalities, are Karen Leibovici, second vice-president, and Merrill Henderson, board member.

Welcome.

We will open the floor for you to make a presentation to the committee. Then we will move to questions from the committee. Whenever you're ready, please begin.

**Ms. Karen Leibovici (Second Vice-President, Federation of Canadian Municipalities):** Thank you, Mr. Chair and members of the committee. It's a pleasure to be able to present the municipal perspective on Bill C-33.

Our president, Hans Cunningham, asked me to share with you his greetings and also his regret that he could not be here with you today to speak to you.

Councillor Henderson is the co-chair of the FCM-RAC proximity steering committee and joins me today in this presentation.

FCM has been the voice of municipal government since 1901. We stand for more than 90% of the Canadian population, representing over 2,000 municipal governments across the country—large, small, rural, urban, northern, remote. We represent the interests of communities and cities on policy and program matters that fall within the federal jurisdiction.

Recently the FCM-RAC proximity steering committee heard from the Railway Association of Canada with respect to a number of recommendations pertaining to the Safer Railways Act. The Railway Association recommended that municipalities be required, under the Railway Safety Act, to notify railway companies with respect to proposed land use or bylaw amendments.

On behalf of Canada's municipal governments, I'm here today to reinforce our sector's opposition to the recommendations and to provide some information on why this opposition exists.

First, we have been made aware that the Railway Association of Canada has, subsequent to their appearance before this committee, submitted a letter clarifying their previous assertion that FCM had been notified or consulted prior to their appearance and that we were in agreement with the recommendation as presented. While we appreciate this gesture, we felt it was critical to appear today to deliver the message personally and to take the time to discuss this matter with you directly.

From the perspective of cities and communities across Canada, the proposed amendment would require such notification to railways if changes to land-use designations or bylaw amendments occurred within a 300-metre zone of the railway right-of-way. Municipalities agree that increased communication between us and railways can better inform land-use planning alongside these rights-of-way. However, as I indicated earlier, we cannot support the amendment as presented. FCM has long aimed to improve rail safety in populated areas. Railway operations impact daily on Canadian cities and communities. In recent years we have made submissions to the federal government on municipal railway issues. Our goal has included ensuring railway operators work with municipalities to provide safe rail crossings and develop appropriate separation buffers in populated areas.

Municipal land-use and zoning regulations are guided by and subject to provincial and territorial legislation. As you will recognize, this means that regulations differ from province to province and territory. The recommendation as presented by RAC will create a one-size-fits-all solution to a very diverse regulatory environment. As a result, red tape and delays will impact local land-use planning decisions.

Municipalities are the front-line public safety managers and continually consider the impact of land-use decisions on the safety of property owners. In many cases municipalities notify railways of land-use changes that may pose significant threats to railway safety. In the case of Ontario, these notifications are enshrined in provincial legislation. This process allows the adjacent property owner to use existing local public consultation and review processes to inform and influence municipal land-use decision-making. Thus, the proposed amendment requiring notification on land changes within 300 metres of the railway right-of-way would significantly increase municipal governments' administrative burden in the form of cost and time.

The same also applies to residents and businesses applying for land-use changes. For example, a 300-metre notification zone could easily encompass three to five city blocks in a medium- and large-size city, or, from a rural point of view, an entire municipality.

• (1540)

I mentioned Ontario's regulations. The 300-metre area cited in the RAC recommendation attempts to impose the Ontario case across Canada, because it's seen as ideal by the rail industry. The important point here is that the regulations in place in Ontario were the product of significant consultation and negotiation between the province and its municipal governments. Instead of calling for a national approach, which clearly impedes on provincial jurisdiction, a more productive way to promote this type of notification would be to seek a recommendation and encourage dialogue at the provincial level.

To improve communication on an understanding of municipal-railway interactions, FCM actively supported a memorandum of understanding with RAC in 2003. A joint working group on proximity issues was established to develop protocols, best practices, and guidelines to avoid and resolve precisely the types of issues we're talking about today. The tools were then communicated to our members. This approach allows a national dialogue to take place without impinging upon provincial jurisdiction.

As I indicated earlier, my colleague, Councillor Henderson, co-chair of this working group, has long been involved in seeking better communication between municipalities and private property owners. The working group has discussed designing a more streamlined way to notify property owners and others of land-use changes adjacent to railway rights-of-way. However, I would like to repeat that there is no one-size-fits-all solution to this issue. Our group's preferred approach is to develop and disseminate to municipalities and railway operators best practices around this issue to improve and continue to improve how these two groups work together on the ground.

In conclusion, for the reasons I have talked about, and in continuation of the work we have undertaken through our joint working group with RAC, FCM is urging this committee, on behalf of all municipalities across the country, not to adopt the proximity recommendation put forward by the Railway Association of Canada.

I would like to thank you and my colleague, Merrill Henderson, and I will be pleased to answer your questions.

• (1545)

**The Chair:** Thank you very much.

When a question has been asked, I won't recognize you; I'll just expect that you will answer after you've heard it completely.

Mr. McCallum, you have seven minutes.

**Hon. John McCallum (Markham—Unionville, Lib.):** Thank you, Mr. Chair.

Thank you very much to the witnesses for being with us today.

I'm not sure if you're aware of this, but I'll be with you in Corner Brook tomorrow to talk to your members about infrastructure, affordable housing, and other issues.

On this particular issue—this is unusual—I really don't have any significant questions, because I totally agree with what you have said. I think it's logical, and I agree. So I think I'll just leave it at that.

**Mr. Merrill Henderson (Board Member, Federation of Canadian Municipalities):** We welcome you tomorrow. It's a beautiful climate over here. The sun is shining and you'll probably get a tan.

**Hon. John McCallum:** Thank you. I look forward to it.

**The Chair:** Thank you.

We'll go to Monsieur Gaudet.

[*Translation*]

**Mr. Roger Gaudet (Montcalm, BQ):** My question is simple. Unless it isn't done the same way in all the provinces, usually, when a municipality wants to make a zoning change, all the taxpayers affected by the change are told about it through a public notice. Isn't it done this way in all the provinces?

[*English*]

**Mr. Merrill Henderson:** Yes. That, in fact, is correct.

**Ms. Karen Leibovici:** It varies, though, across the country with regard to the area where the notice would be, the type of notice, how the notice would be provided. That is the reason it would be very difficult to provide this on a national basis. It varies per province and per territory, and it also varies in each municipality under the umbrella of the provincial and territorial acts.

[*Translation*]

**Mr. Roger Gaudet:** I agree with you.

I was mayor for a few years and when a zoning change was planned, everyone concerned by the change received a public notice. If a railway track had to pass through the middle of the town, the owners concerned received a public notice. I don't know if, in the other provinces, a letter is sent in similar cases. I didn't understand earlier why you said that the people didn't know. I would like you to explain that to me again.

[*English*]

**Ms. Karen Leibovici:** The proposal that was put forward by the Railway Association of Canada was that there be a uniform notice of 300 metres, but our position is that you cannot have a uniform notice requirement across the country.

I'm not sure if I'm answering your question or understanding what you're asking.

[*Translation*]

**Mr. Roger Gaudet:** I agree. Certainly, if a railway track goes through a place and there are buildings 30 metres from there, we cannot free up a 300-metre space on either side of the track. But, it could perhaps be done in the case of new railway tracks.

No one lived in the areas around highways in the past, but, now, there are many houses there, and people are asking that noise-abatement walls be put up. It's the same thing for railways. There are railways that pass right through the centre of Montreal and there are houses nearby. What can you do? If a person has a house built near the railway track to be close to the station, that person must deal with the consequences. There aren't only advantages to that, but disadvantages as well. What do you think about that?

[English]

**Ms. Karen Leibovici:** Each municipality puts in place its own bylaws with regard to proximity. Our committee looks at how we deal with those issues, how we put forward best practices that can be used across the country. The main issue at heart here is that there would be a uniform requirement across the country of 300 metres in terms of notification. Again, what we're saying is that it's not feasible to try to make it uniform across the country.

● (1550)

[Translation]

**Mr. Roger Gaudet:** So, you think it is impossible to have a uniform regulatory requirement across the country. No municipality and no province has the same bylaws. It's impossible because of municipal bylaws. The bylaws change from one municipality to another.

Thank you very much.

[English]

**The Chair:** Mr. Bevington.

**Mr. Dennis Bevington (Western Arctic, NDP):** Thank you, and I want to welcome the witnesses to the committee.

I was also a mayor at one point and served on the FCM board of directors—I sat on your green fund for five years—so I'm very familiar with the organization. I appreciate your being here.

I've got a number of questions. The railway companies have stated interest in this because they say large developments in municipalities will impact them in terms of...I think in a number of ways. Of course, there's the level crossing issue, but I'm very concerned now with the high rate of deaths through trespass. Many people will cross rail lines because they perhaps are going to a new housing development. Within the community there are reasons to cross the rail or to use the rail line when they shouldn't be.

We're dealing here with railway safety. Of the deaths that have occurred in our rail system in the last number of years, all of them have been through either level crossings or trespass. So when we come to deal with safety, we want to understand completely how to reduce those numbers. I'm sure you agree with me that this is the requirement we're working on here.

The railways have come to us and said they need to be able to understand the nature of municipal development so they can better offer planning advice in terms of access and crossings. Wouldn't you see that the work here would be important for your municipalities across the country to come to grips with this particular issue? I know that perhaps we don't want to have a federal law that lays out the requirements of municipalities, but how would you propose that we increase the safety of people within the municipality, reduce the

number of deaths at level crossings, and do all that work here without some measure of understanding between railways and municipalities?

**Ms. Karen Leibovici:** Thank you for that question, because that's exactly what the work of the proximity steering committee is about. Councillor Henderson will give you a little bit more detail about the exact work, but it's ongoing.

The committee was put together precisely to deal with those types of issues—the proximity issues and the conflicts that sometimes occur when you have railway lines in populated areas or railway lines that are at level crossings. There is an ongoing discussion between FCM and the RAC to look at how to develop and how to work with the best practices being put forward to improve safety.

Councillor Henderson can provide you with more information as well.

**Mr. Merrill Henderson:** Thank you for the question. In fact we do talk very often about crossings.

I just want to share with you that I live in the city of Moncton, and the rail line runs right through the centre of our city. We have a number of level signalized crossings, and in the years I've been there, I don't recall anybody being killed at them. I can recall that, probably in the last 10 years, there have been maybe two or three deaths caused directly by trespassing in areas where people shouldn't be trespassing. I don't know how you can control that.

As for level crossings and signalized crossings, quite frankly, I've never heard about those being a big issue that we need to be discussing. You say it's coming from the rail. On the committee I'm on, there is representation from CN, CP, VIA Rail, and all the short-line operators, and I have never heard discussion that such fatalities are a real issue.

● (1555)

**Mr. Dennis Bevington:** The numbers are such that between level crossings and trespassers, there are between 70 and 100 deaths a year in Canada. Those are significant numbers. Operationally, the railways recorded no deaths in the last couple of years. Sometimes when we look for safety, we look for where the problems are. The ratio of fatalities is something like three to one, trespassing to level crossing. Those are the statistics.

You might say that's not a problem, but 20 deaths at level crossings across the country... We're dealing with railway safety here. This is the major cause of loss of life on the railway, so naturally we have to look at this.

**Mr. Merrill Henderson:** I'm sorry, sir, if you thought I said I didn't think it was an important issue. I certainly say it's an important issue. I'm saying it's something that we haven't addressed at the committee level. It hasn't been something put forth by the rail portion of our committee as a major issue. That's all I'm saying. I'm not saying it's not a major problem; I'm just saying we haven't discussed it.

**Mr. Dennis Bevington:** Okay, good.

That might say something about the railways' understanding of what it's going to cost them, in some cases, to fix the problems and to reduce the number of level crossings. Everyone's going to be involved in that. We could propose regulations that would make level crossings more safe, through higher safety standards than what apply now. Those are things we could do here.

What the railway said to us was that they need some understanding and control over the creation of new level crossings, because the numbers are getting very large with level crossings. They're increasing in Canada, whereas in North America, generally in the United States, those numbers are going down, because they're getting rid of level crossings; they're consolidating them; they're creating overpasses or underpasses, whatever may be the case.

That work is going on. You guys are really a major partner in this, and I would really respect anything you could add to this discussion in order to come up with some ideas that we could put forward on this particular topic.

**Mr. Merrill Henderson:** I would say that the municipalities certainly don't control where level crossings go. Level crossings, as I understand it, are controlled by the Canadian Transport Commission and have to have their approval before they can be put forth or be created. Municipalities really don't have any input into that whatsoever. They may request it, but in the last few years in the city that I live in, I don't recall level crossings being created. In fact, there are some being reduced—they'll just be going in the other direction.

**The Chair:** I have to stop you there.

Mr. Mayes.

**Mr. Colin Mayes (Okanagan—Shuswap, CPC):** Thank you to the witnesses for being here today.

This is the Railway Safety Act, so we're talking about safety and we're trying to ensure the railways can provide a safe corridor.

To give you an example, I'm from British Columbia. I was one of the directors of the Union of BC Municipalities. We are on the main line of CP Rail. The Trans-Canada Highway goes right through our community. There was a provision that any land-use applications within 1,200 feet of the Trans-Canada Highway had to go to the province for their review.

So I can't see how this is any different. This is a rail right-of-way. The railroad has taken on the responsibility and liability for the safety of their right-of-way. It's just natural that they would want to be notified if, for instance, the municipality wanted to put a school close to a railroad right-of-way all of a sudden. That wouldn't make a lot of sense. I know that municipalities operate and plan their communities better than that.

I could understand if you felt that the 300-metre distance was too much or too cumbersome, or else you would insist that the railroad had to have a response time in the application. I always found that the problem with the province was that it took literally months to get back to us to give us their okay on these applications. I also found the railroad is quite slow in responding to municipalities.

I can understand if you approach it in that way, but I don't think that's necessarily a good practice not to let the railroad understand the land use along the corridor and what your decisions are.

How do you feel about that?

• (1600)

**Mr. Merrill Henderson:** I understand you're from British Columbia and you've been involved with municipalities, so you would know that. Let's go back to Ontario. Ontario put their regulations in place as a result of dialogue with the various municipalities they represent. They came to an agreement.

What you're asking for here is to impose this without any dialogue with the provinces. As you know, the Planning Act is covered by the province and is not a federal jurisdiction. Each province's planning act is probably different to some degree.

What you're suggesting here is that putting this in place without any dialogue, without any consultation with the provinces, should be in order. I have a little problem with that.

**Mr. Colin Mayes:** In answer to that, the railroad right-of-way is a federal issue. For instance, railroads have their own policing. The local police do not police on the rail right-of-way. They have no jurisdiction over there.

It is a federal issue because we're talking about rail safety and that corridor. I think the railroad has a right, because they have the legal undertaking and the liability of keeping their rail line safe as per the act.

**Mr. Merrill Henderson:** Okay. I'm familiar with the railroad. I spent 40 years working for them, so I'm very familiar with them.

You just pointed out something that's very important. You said you have to get permission from the province before you can build close to the Trans-Canada in your area. It takes a long time to get a response from them. You think the rail industry would probably be even worse.

Just imagine yourself as a developer, going to build something somewhere and you have to go through the hoops the municipalities put you through. Then you're going to have to wait for the rail industry to give their approval as well. It could take months after you plan a development before you get a response.

**Mr. Colin Mayes:** That's my whole point, instead of saying not to have that notification of the rail, specify that they have to reply in a certain timeframe, and make sure it's a timely process. To me, that would be understandable for rail because they would understand that you wouldn't want to hold up your development applications. To me, that's the issue.

The railroad is a landowner within the municipality or region. They should be notified and be aware of what those land-use development permits are about.

**Mr. Merrill Henderson:** In fact, in my municipality the rail has a large tract of land, very much within the 300-metre zone, that they're attempting to sell right now.

**Mr. Colin Mayes:** I really appreciate what you said earlier about how you have been working with the Railway Association and talking about protocol and best practices. To me, this gets back to that. Why can't you determine with the railroad what they would think would be reasonable?

As I say, I still think there needs to be some sort of guideline as far as the distance from the right-of-way and the development of the land use within that right-of-way are concerned if the railroad is going to be responsible for the safety of that right-of-way. For instance, developing a high-traffic public area across a rail where there's going to have to be a higher load on the crossing is an issue the railroad is going to have to deal with. For a municipality, I don't think it would be reasonable for them to allow that kind of development without first notifying the railroad.

• (1605)

**Mr. Merrill Henderson:** I certainly agree with your point there. I think the municipalities, for example, do not want to create issues that are going to cause them a lot of problems as well. If we have something that is in close proximity to a rail line and we're starting to get complaints from our citizens, that's causing us problems as well as the rail industry. We don't want to go there, and I think most municipalities don't want to go there.

We do have a guidelines committee. We can certainly go back and look at this a lot more carefully and deal with it through our committee, but we've never had that opportunity yet.

**Ms. Karen Leibovici:** And the strength, as you know, of our association in terms of the Federation of Canadian Municipalities is that we do incorporate—have sitting at the table—the provincial and territorial associations as well, which gives us access to the provincial and territorial orders of government, who are the overarching bodies in terms of our planning authorities as municipalities. Again, the one size across the country with respect to this really doesn't fit.

As Councillor Henderson indicated, in Ontario there were significant discussions that occurred with the provincial government, the Railway Association, as well as with the municipalities, and they came to the 300-metre notification zone. Would that work in a place, for instance, like the Yukon?

I think those are the kinds of things that you can only do on a territory-by-territory, province-by-province basis, looking at what the needs are within each of those jurisdictions.

**The Chair:** Thank you.

We're good here. We're good there.

Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** Oh, wow. That was quick, Mr. Chair. Thank you.

Thank you to our witnesses who are appearing by teleconference today. We appreciate your testimony. It's a little different, because we're not actually talking about the bill itself here but about proposed amendments to the bill.

I want to pick up a little bit from where Mr. Mayes, I think, left off. Obviously municipal development affects safety of rail rights-of-

way. I think Mr. Bevington touched on the increased traffic from development that can affect at-grade crossing and the encroachment on rail rights-of-way. I think maybe some members of the committee are trying to figure out how we can best address some of the concerns of the rail companies, who have to be concerned about, and are primarily responsible for, safety; the federal government, who oversees that or regulates that; and the municipalities, who need the ability to make, in a streamlined fashion, appropriate land-use planning decisions.

I can see that one of the problems is that the federal government, of course, has no jurisdiction with respect to land-use planning. Adopting this kind of an amendment may.... I'm not sure how we could do that.

Let me see if I understand your position clearly with respect to the Railway Association of Canada's proposed amendment. Is it that you have an "in principle" opposition that there be some duty of municipalities to consult with the railways on these types of issues? Or is it, as Mr. Mayes was sort of getting at, that this is a distance issue in terms of what the setback should be? Is your opposition more around just how long it takes, which could be resolved by some sort of time limit on this duty to consult? Or do you just have an opposition in principle to this kind of formal duty to consult?

• (1610)

**Ms. Karen Leibovici:** No, we don't have an opposition in terms of the requirement to consult. We do that with our landowners. We do that as a normal process in terms of land use.

Our issue, as you indicated at the outset, is that this is not within federal jurisdiction; that this is a land-use planning issue, which is within municipal and provincial-territorial jurisdiction; and that by trying to make it a one-size-fits-all, what will end up happening is that we'll create a lot of difficulties across the country, because one size does not fit all.

So that's what the issue is. That there will be notification—we do that as a matter of course.

**Mr. Jeff Watson:** The Railway Association also, if I remember correctly, and perhaps someone on the committee can correct me, made some proposals with respect to making municipalities' abilities to get railway crossings much more restrictive.

Have you read that testimony, or have you heard that aspect of their testimony? What are your thoughts on that?

**Ms. Karen Leibovici:** I'm not aware, but Councillor Henderson might be.

**Mr. Merrill Henderson:** No, I'm not aware either.

Just by my observations, as I said, it seems to me that the number of crossings that we have, especially un-signalized crossings, are diminishing as opposed to increasing.

And I've never heard anything that you've just described, so....

**Mr. Jeff Watson:** Smaller communities in urban areas like the GTA each have their own issues and concerns. What are you hearing from them? Do you find that their concerns are shared? Are there differences between the concerns with respect to rural areas or urban areas? What can you tell me on that?

**Mr. Merrill Henderson:** I'm not familiar with that; I have never had any real dialogue about the GTA.

**Mr. Jeff Watson:** Okay.

I'm not sure I have anything else at this moment, Mr. Chair.

**The Chair:** Thank you.

I'll come back to this side. Are there any more questions?

Ms. Gallant, for five minutes.

**Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC):** Thank you, Mr. Chairman.

To our witnesses, I'm pleased you can join us all the way from Corner Brook.

I was half expecting to see Neville Greeley there. Is he still part of the FCM?

**Ms. Karen Leibovici:** Yes. The mayor is our host while we are here. He is part of FCM, absolutely.

**Mrs. Cheryl Gallant:** I'm glad to hear that.

Most of what I have to ask will be from the testimony we've heard. In my area of Ontario, we've solved the rail safety issue. We have no trains left running across our stretch of the country, though we've done our very best to ensure all of the level crossings are safe.

There was a comment made earlier by one of my colleagues across the way with respect to fatalities. From your organization's experience, has there been any breakdown done in terms of accidental versus intentional fatalities at these level crossings?

•(1615)

**Ms. Karen Leibovici:** Not to my knowledge, no.

**Mr. Merrill Henderson:** I don't have any as well.

**Mrs. Cheryl Gallant:** So we don't know if some of these fatalities are not as a consequence of the safety factor but they are more or less a factor of the driver's own intention to have this happen. It would be helpful to have that breakdown, both to help the municipalities as well as the rest of the regulators.

In terms of numbers of railway crossings, it has been discussed that the number is diminishing. Would you say there are any regions across the country where this is more or less observed?

**Mr. Merrill Henderson:** There again, I don't have that statistic available.

I would say it's probably because of something you just described, that most of the short lines are not used as much and they have been closed. I would suggest there's less rail throughout our whole country, and based on that, a number of level crossings had to be eliminated.

**Mrs. Cheryl Gallant:** This doesn't have to do with level crossings, but you're speaking on behalf of a national organization. Are we seeing this phenomenon we're experiencing with the railways diminishing in length happening in certain sectors of the country, certain provinces over other provinces?

**Mr. Merrill Henderson:** I think it certainly has happened throughout Canada. Here in Newfoundland, for example, the rail industry has been removed entirely. In the province of P.E.I., it has

been removed entirely. I know in the province I live in, New Brunswick, it has certainly been reduced considerably.

Most of the issues we deal with in terms of rail are usually a result of complaints from either organizations or citizens regarding blocked crossings, or noise, vibrations, things of this nature. Those are a lot of the issues we deal with through our committee. We have set up guidelines and protocols, and we've been very successful in dealing with those.

**Mrs. Cheryl Gallant:** How are the diminishing rail-line operations affecting the economic development of the municipalities that your organization represents?

**Mr. Merrill Henderson:** I can't really speak to that; I can only speak to the city I live in, which is Moncton, New Brunswick. We went through a real economic challenge back in the mid eighties, and there were a significant number of rail jobs eliminated in our community.

Moncton was created as a result of the rail industry. But we have diversified, and our economy is very, very strong today. We have a very limited number of rail jobs in the city of Moncton right now.

**Mrs. Cheryl Gallant:** From the standpoint of any manufacturing that may be done there, has there been an alternate form of transportation found for getting your products to the other end of the country?

**Mr. Merrill Henderson:** We have three major trucking companies with headquarters in Moncton.

**Mrs. Cheryl Gallant:** So they've picked up the slack that the railway previously had provided.

**Mr. Merrill Henderson:** Exactly.

**Mrs. Cheryl Gallant:** Do you have any rail lines going through Moncton at all?

**Mr. Merrill Henderson:** The main line goes right through the centre of the city.

**Mrs. Cheryl Gallant:** With respect to your committee and the sorts of complaints you hear, are there any that have to do with fires set seemingly as a consequence of the dry summer months and the sparks that are sometimes created by the wheels hitting the rails, or the friction in between?

**Mr. Merrill Henderson:** I'm sure we have had that issue, but I can't recall anything at the present time.

**Mrs. Cheryl Gallant:** We've had some of those in the past as well, especially in outlying areas where the municipalities are so small they don't have a firefighting service. I was wondering if those were isolated incidents or something across the country that you'd heard about.

In terms of the noise and the complaints, are there generally bylaws across municipalities that are able to deal with this?

**Mr. Merrill Henderson:** I suspect there are. For example, in our municipality there is no whistle-blowing. They can't blow the whistle within our municipal boundaries except when there are work crews. If there's a work crew in the area, then they are required by law to blow the whistle. Other than that, there's no whistle-blowing when they go through our city.

•(1620)

**Mrs. Cheryl Gallant:** Would that not be part of rail safety—to have somebody in the vicinity of a crossing made aware through sound transmission?

**Mr. Merrill Henderson:** That would have to be approved by the Canadian Transport Commission. That was obviously approved by them, because it's been in place for a long time.

**Mrs. Cheryl Gallant:** Thank you, Mr. Chairman.

**The Chair:** Thank you.

Unless there's anything on this side, we'll go to Mr. Fast.

**Mr. Ed Fast (Abbotsford, CPC):** Thank you, Mr. Chair.

It's good to be back at your committee. It's been a while, and I'm looking forward to participating in this debate.

I thank our witnesses and share with them the distinction of having served on a city council. In my case, it was for nine years in Abbotsford, British Columbia.

In my community we have rail lines criss-crossing our territory. We have had issues with noise, as I'm sure many of your members have. We have some very significant issues with rail safety. To top it off, in our community, which is one of the fastest growing in Canada, we have had increasing problems of trying to address traffic flows because of industrial and residential development. Those are all serious challenges for growing communities. So any time we can improve communication between railways and communities, and between railways and residents, I think you would agree, that's a good thing.

With respect to the issue at hand, which is noise, you had referred to the 2003 consultation, which resulted in the memorandum of understanding that you spoke of approvingly. Before I get into other questions, could you articulate some of the key areas of that memorandum that you have found to be very helpful in your dealings with the railways?

**Mr. Merrill Henderson:** I don't have a copy of the memorandum in front of me, but as I said before, our committee is made up of representation from all of the rail industry along with municipal members of councils from across Canada. There have been a number of issues that we have assisted the municipalities, the community, and the rail industry to resolve over the years, and that has served us well.

**Mr. Ed Fast:** Perhaps, Ms. Leibovici, I will ask you this, because you were the one who raised the memorandum.

Can you point to any specific successes arising out of the memorandum that have helped you in your relationship with the railways?

**Ms. Karen Leibovici:** I think the biggest success was just getting to sit down at the table to talk to each other. That has not always been the past practice. At times the relationship between the municipalities and the railways has not been the friendliest, and it has been adversarial at times.

The memorandum of understanding provides us with a forum where we can sit down, discuss some of the issues you have brought up in the questions today, and move beyond fixed positions towards

how to deal with these issues, looking at some of the best practices. A website has been put together where people can see some of the solutions that have been put forward. So that's what the committee provides for us.

It was a memorandum to say, let's sit down and highlight what some of the issues are, whether it's noise or proximity, and how do we move forward to deal with those? The process is still in the works. Do we have all the answers? No, but we're sitting at the same table together, and I think that's important.

•(1625)

**Mr. Ed Fast:** Given the fact that the memorandum has been in place for almost eight years and you haven't pointed to any specific successes it has spawned, I suppose the effort by the railway association to address the issue of notification is perhaps an effort to move this forward.

You mentioned that you can't impose a one-size-fits-all program, because every municipality is unique in its requirements and needs. So if we're not going to impose a one-size-fits-all solution, what is your solution? Are you simply suggesting that things be left as they are and municipalities individually apply their own standards?

**Ms. Karen Leibovici:** We have an example of where it worked quite well in Ontario. Through the provincial government and the municipalities—the associations there—and the railway, they came to an understanding and agreement on the 300 metres. So there is an example and a model there. It fits the needs of the municipalities in Ontario, as well as the needs of the provincial government.

If you took the Ontario model—which is what is being proposed here—and tried to place it in the Yukon, Northwest Territories, or P. E.I., would it work? Perhaps, but it would probably work a whole lot better if the discussions occurred with those provincial and territorial associations. FCM would be a member of that, as well as the provincial or territorial order of government. I think then you'd get to a...

**The Chair:** Thank you, Mr. Fast.

I'll go around the table to see if there are any others.

Mr. Warkentin.

**Mr. Chris Warkentin (Peace River, CPC):** Thank you.

I'd like to pick up where Mr. Fast left off. You speak about the Ontario model and describe it as being one of success. Where the rail must run in Ontario must be very diverse. There would be rural communities, northern communities, and very urban communities. The GTA would respond to the same regulations. So it seems to be a good test field, or a place where you as an organization can assess whether or not it is the right approach.

Having considered the success in Ontario, do you find that the 300-metre setback is more effective in rural communities versus urban communities? Who is succeeding in Ontario? Who is being challenged as a result of the regulation? That input would be helpful as we consider its application across the country.

What's your current assessment on the differential, based on the different types of communities that are served and represented in Ontario?

**Mr. Merrill Henderson:** I can't comment on that. I'm something like you; I know they put it in place, that's all. I don't know how it affects...I haven't been given any information to tell us how the various municipalities have been affected or have responded to this.

**Mr. Chris Warkentin:** I guess that's what this committee is looking for—some insight. You have described the Ontario model as being one of success. We've talked about the differences that are represented in the province. When you look at communities—some of which are urban, some of which are rural, some of which are up north, and some closer to the south. It's got to be a good model that you could extrapolate some of the outcomes and apply them more generally across the country.

I represent several communities where the railroad runs right through the community. What inevitably happens, it seems, is that the railroad is there, the community grows around it, and as the community grows and as the region grows and develops, there's more traffic on the railroad, and before you know it people are complaining about this noisy railroad that's running through their community, whereas it was the generator of or the reason the community exists there today.

I'm curious. I think you're opposed to this amendment, but you seem to be... Maybe I'm missing something. You seem to be opposed to this particular amendment, but you seem to be very supportive of what happened in Ontario where they applied a very similar requirement. I'm not quite fully understanding.

It seems to be a reasonable one. Representing a community that runs up against the Northwest Territories...I don't see how the application is significantly different.

• (1630)

**Ms. Karen Leibovici:** The difference, and what we're supportive of, is the discussions that occurred with regard to the municipal land-use issue, which is within provincial and territorial jurisdictions and not within federal jurisdiction. We are suggesting the process was a good process. Whether that process provided for 250, 300, or 350 metres, that was the outcome of the process.

But what we're seeing potentially happening here is that there would be a cross-Canada application of a 300-metre notification distance, when what we should be talking about is how we deal with the issue of notification in municipal and provincial jurisdictions. That process was successful in Ontario. They were able to sit at the table with the municipalities, the associations, the province, and the railway association and come to an agreement about what the notification distance would be.

I think if you use that model across the country, it would then be tailored to the needs of those municipalities and those provincial jurisdictions. It works in Ontario. The 300 metres may not work in some other province or some other territory. Again, we're talking about municipal jurisdiction.

**Mr. Chris Warkentin:** I think I'm understanding the point you're making a little more. You have no concern with regard to the 300 metres specifically. You're concerned about the understanding, the constitutional reality, that municipalities are a creation of the province and therefore there's a jurisdictional difference.

It may be difficult to make that full argument, in that railways, of course, are federally regulated, so there is some overlap. I'm not a constitutional expert, nor do I want to begin the debate. It's interesting. I'll maybe have to remind my FCM representatives who come to my office next time that, no, they should be speaking only to the province. I say that in jest.

I understand what you're saying and that it's a concern. Would you be uncomfortable if any requirement were included in this legislation that would involve municipalities at all, because it's coming from the federal level? Is everything off the table because this is a federal regulation and therefore if it impacts municipalities it should be...? Is it the position of FCM that it's something the federal government shouldn't touch and therefore shouldn't legislate on if it impacts municipalities?

• (1635)

**Ms. Karen Leibovici:** I think in this particular case it's the land usage issue if it lies within the provincial and territorial jurisdictions.

Just to go back to a point you made about the 300 metres, we don't have a problem with the notification. Whether it's 300 metres or 250 metres, that, I think again, will depend on what each jurisdiction requires and comes to as a result of the negotiations.

I haven't looked at the whole act, so I can't really reply to your question as to whether there are other items in the act that perhaps are under federal jurisdiction that involve municipalities. In fact there are lots of crossovers when we look at the issue of cellphone towers. We don't have much jurisdiction in that. That is within federal jurisdiction.

Again, with regard to Bill C-33, I can't say I know which pieces are within the federal jurisdiction and which are within the provincial-municipal, other than this particular piece we're talking about, which is the notification piece with regard to land use.

**Mr. Chris Warkentin:** Thank you so much. I think my time's up.

**The Chair:** Thank you.

Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** Thank you, Mr. Chair. First, I am pleased to be with you at the Standing Committee on Transport, Infrastructure and Communities. I was on the committee for a long time.

Ms. Leibovici, I was the president of the Union des municipalités du Québec. So I am well aware of the situation. Your recommendation is very wise. If the federal government wants to get involved in provincial matters—the notices are issued by the municipalities, which report to the provinces—a constitutional battle is going to ensue. It is clear that there will be opposition to that. I understand what the railway companies would like to get. But the solution that you are proposing, namely, to negotiate with each of the entities by following a model that you are in the process of developing at the Federation of Canadian Municipalities, is the wisest.

If I was the head of the railway companies, I would accept that and would not get involved in a constitutional debate on the topic. They would lose their case anyway. So I am happy that you adopted that position. Your comments are very wise, and I hope that the committee will take them into account.

[*English*]

**The Chair:** This is the final round for a brief question. Is there anyone else?

Mr. Mayes.

**Mr. Colin Mayes:** Just to follow up on what Mr. Laframboise mentioned, I want to make it clear that I don't think the railroad should have the right to tell you whether or not you can have a development. I think they need to work with you. I think they need to be notified, and there needs to be a determination of what that area of notification is. I wasn't suggesting that your jurisdiction would be trumped by the railroad as far as development on municipal or regional land goes.

There's another area that concerned me when I first saw the act. You haven't mentioned it, and I just want to know if you've talked to the railroad about it. Under the act, the railroad has to file an emergency response plan. My experience with regional government is that the regional government would put together an emergency response plan for their area, including the railroad.

Of course, you don't collect any taxes on the railroad right-of-way—at least they don't in British Columbia—so the community is providing the service, because the railroad is not going to have people all the way along the main line who are ready to respond to an emergency. They're going to rely on the local government or the regional governments to have that plan.

My concern was if that was going to be provided by the local government, they should be paying for that, especially if they're going to incorporate that in their plan, and they have to have a plan to get their running licence. Did you discuss any of those issues with the railroad association?

**Mr. Merrill Henderson:** That's a good point you just made. That's not something I've heard discussed, although in our community we have a very well-organized emergency response plan. I think years ago we used to have people from the rail industry involved in it, but I don't think we do currently.

But that's a good point. It's something we can bring up for discussion. Since I've been involved with the proximity steering committee, I have not heard it discussed.

• (1640)

**Mr. Colin Mayes:** I did bring it up with the department during the discussion here when they were witnesses. I gave an example of a locomotive that was derailed just beyond our community. There was fuel spilling and it was heading toward the Shuswap Lake. Our emergency people got out, put a dike around it, and secured the area. The rail employees finally responded to the accident, but it took some time for them to come from a distance away.

They are going to rely on local government to provide that service, so I think it's important. The department recognizes that it is important that rail work with the local government and the provinces

on that emergency response plan. It's part of their running licence. If they don't have that, they're not going to get their running licence. So they're aware of that. That was my issue.

Thank you, Mr. Chair.

**The Chair:** Thank you.

Mr. Fast, do you have a final comment?

**Mr. Ed Fast:** Thank you, Mr. Chair.

Mr. Laframboise brought up the issue of getting into some legal entanglements on whether the municipality has jurisdiction over this notification area that's being proposed—whether the railways have jurisdiction or the federal government.

Have you sought a legal opinion on that issue? Obviously it's going to be a very important consideration. If the federal government or the railways have no way of actually imposing this requirement on you, it appears to me that it's dead.

**Mr. Merrill Henderson:** In our community, with any zoning that's going to be changed we have a requirement that anybody within 100 metres, not 300 metres, must be notified. That's something we put in place in 2005. This is beyond what the land planning act requires. Citizens were telling us they didn't know a certain zone had been changed, so we made sure that anybody within 100 metres was notified.

**Mr. Ed Fast:** Thank you.

**Mr. Merrill Henderson:** I'm not aware of us getting any legal opinion on this. It's a good point—something else we can look at.

**The Chair:** Ms. Dhalla.

**Ms. Ruby Dhalla (Brampton—Springdale, Lib.):** Thank you very much, Mr. Chair.

It's a pleasure to be here at the transport committee. I grew up in a family of boys, so I feel right at home here because there are so many men on the committee.

I know that Mr. Fast was speaking about the legalities regarding the jurisdictional issues, and I wonder if the FCM has spoken to the municipalities about the financial burden this amendment might pose to them.

**Ms. Karen Leibovici:** No, we haven't done that. This is an issue that has just come to our attention. If there is a recommendation from the committee to move forward with this, we will obviously need to do some of what you're asking in terms of indicating the issue by moving forward with an amendment, as proposed by the RAC.

**Ms. Ruby Dhalla:** Thank you.

**The Chair:** Mr. Warkentin.

**Mr. Chris Warkentin:** I'm still curious about the difference between what's being proposed here and what has been applied in Ontario. I'm unfamiliar with what's required in Ontario and what has been agreed to. Is it simply a notification requirement in Ontario, or is there a larger definition of consultation? Is it simply a letter that needs to be sent? How does that work?

•(1645)

**Ms. Karen Leibovici:** It's my understanding that it's a notification. Then whatever the planning processes are in Ontario as a result of the notification would kick in. That would probably differ from province to province to territory, as well as between municipalities. Different municipalities, under the umbrella of whatever the notification was, would have different processes on how they conduct their public hearings when you're looking at land-use amendments.

**Mr. Chris Warkentin:** I'm from the province of Alberta, and with the cities I'm familiar with, if there's a development proposal in the jurisdiction where another business is located, there's an opportunity for consultation and general comment by adjacent landowners or business owners. Is that currently applied across the country generally? Is there usually a requirement for local consultation whenever there's an application for a building or a change in use, or that type of requirement?

If so, is it simply the railways being lazy in wanting to be notified separately? With the laws and bylaws that are currently in place, wouldn't the railways already have an opportunity to be involved in the consultation on future development generally?

**Ms. Karen Leibovici:** You would think they would. I'm also from Alberta—Edmonton, actually—so I'm well aware of the way the public hearing process works, the notification process. But depending on the capacity with the municipalities, the smaller municipalities may not go through the same consultation process that a large municipality would go through.

What is the same is that there is a notification and there is the ability for the public to come. The public would include businesses and entities like the rail companies, who could make a presentation.

But again, to have a blanket...across the country I don't think will work when you look at the differences between provinces and territories.

**Mr. Merrill Henderson:** Could I also say that in the province of New Brunswick everybody is required by law to publish any zoning changes in the local newspaper.

As I said earlier, we have gone beyond that in our municipality. We notify each individual or business or homeowner in writing of any changes if they are within 100 metres of that area.

**Mr. Chris Warkentin:** Mr. Henderson, in your municipality do you consider the railway as an adjacent business or landowner, so if there were an application to build next to the rail line, the company would be notified anyway?

**Mr. Merrill Henderson:** Very definitely.

**Mr. Chris Warkentin:** They would be. If it's anywhere along that corridor, they're going to be notified. If that were generally applied, I don't see that there would be a significant difference in municipalities across the country.

But you're saying it's best that it comes from the provincial level rather than the federal level.

**Mr. Merrill Henderson:** Yes, land planning is a provincial responsibility. As I said earlier, the requirement by our province is that we must provide notification in the local newspapers of any

zoning changes. Our municipality has gone beyond that to notify each individual, in written form, of any zoning changes.

**Mr. Chris Warkentin:** It sounds like for FCM this is more a matter of principle. Land-use jurisdiction is provincial and not federal, and therefore it should be negotiated in that context.

It's not necessarily the difficulty based on the differences from community to community. It has more to do with the principle of the application of what you perceive is a constitutional division between federal and provincial powers.

•(1650)

**Mr. Merrill Henderson:** Exactly.

**Mr. Chris Warkentin:** Would you have any difficulty if the federal government, through an initiative, were to consult with the provinces? All provinces would then make a determination as to how they could apply a common application when dealing with railroads.

Would that be a more appropriate avenue, possibly?

**Ms. Karen Leibovici:** With municipalities at the table as well, of course.

**Mr. Chris Warkentin:** Right. Okay.

Thank you.

**The Chair:** To our guests—I see no further questions—thank you for taking the time. You're in a beautiful part of the country; I hope you enjoy your weekend.

Don't let Mr. McCallum spend too much time with you in the afternoon.

Thank you very much.

**Ms. Karen Leibovici:** Thank you very much.

**The Chair:** Members, we'll take a short recess.

•

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

•

**The Chair:** Welcome back, everyone. We're moving into the business part of our committee meeting.

I've had a discussion with Mr. McCallum. He has agreed to defer the last two motions until the meeting on Tuesday, but he does want to present the motion that he brought forward as of February 24, 2011.

Mr. McCallum.

•(1655)

**Hon. John McCallum:** Thank you.

They would be deferred until Tuesday morning, correct?

**The Chair:** Yes. You have the last hour of the Tuesday morning meeting.

**Hon. John McCallum:** Okay. Thank you.

I would like to present this motion about the limousine drivers, but I'd ask my colleague Ruby Dhalla to both propose an amendment—the time proposed for the meeting on this motion no longer works—and say a few words about the issue.

**The Chair:** Before I ask for the amendment, we actually have to read the motion into the record and have it on record to do a change. You could also move the amendment yourself, since you're doing it for the first time—whatever is suitable for you.

**Hon. John McCallum:** Okay.

**The Chair:** I would ask committee members to listen, because I suspect that some of the dialogue will be different from the printed word.

**Hon. John McCallum:** I move the following:

That the Standing Committee on Transport, Infrastructure and Communities hold a meeting on Thursday, March 24, 2011 from 11 a.m. to 1 p.m. to study the current situation with regard to airport limousine drivers at Pearson International Airport, that representatives of the drivers, the limousine companies, and the GTAA be asked to appear, that the Committee report its finding to the House, and that no motions, dilatory or otherwise, be entertained by the chair at said meeting.

**The Chair:** Does everybody understand that, with the changes?

Maybe I'll ask Chad to read it one more time. He has the changes as well.

Basically, the parts about dilatory motions and the time have been added.

Go ahead.

**Mr. Chad Mariage (Procedural Clerk):** As I understand it, Mr. Chair, the motion would read as follows:

That the Standing Committee on Transport, Infrastructure and Communities hold a meeting on Thursday, March 24, 2011 from 11 a.m. to 1 p.m. to study the current situation with regard to airport limousine drivers at Pearson International Airport, that representatives of the drivers, the limousine companies, and the GTAA be asked to appear, that the Committee report its finding to the House, and that there will be no votes during this meeting, and that no motions, dilatory or otherwise, be entertained by the chair at said meeting.

**Hon. John McCallum:** I had meant to erase that part, “that there will be no votes during this meeting”, and replace it with the other one.

**Mr. Chad Mariage:** Okay. Good.

**The Chair:** Does everybody understand that?

I'll open the....

Did you want to give an explanation?

**Hon. John McCallum:** I was suggesting that Ruby Dhalla might, in my place.

**The Chair:** Sure. Absolutely.

**Ms. Ruby Dhalla:** I just want to thank all of my colleagues for making me feel so welcome. It's the first time in my parliamentary career that I've been to the committee on transport, and it's a pleasure to be here.

I'm here today on behalf of a number of my constituents and drivers of airport limousines at Pearson International Airport who live not only in my riding of Brampton—Springdale but also in many other ridings in the surrounding GTA area. These drivers of airport limousines at Pearson Airport have been locked out by their employer, the McIntosh Group of Companies. There are two subsidiary companies to that: Air Cab Limousine and Aairport Limousine.

Since December 1, 2010, their situation has been very unfortunate. They have been locked out as a result of some alleged unfair business practices. The allegations that have been put forward by the drivers include the mandatory purchasing of the actual vehicle itself from the employer, the mandatory transfer of ownership to the employer without any confirmation of paperwork, the mandatory purchase of insurance from the employer itself. They also include payment of grossly inflated sums of money, for both the permit and the dispatch fees. When you take a look at all of the allegations, it is very clear and evident that these drivers, who are very hard working and who are trying to put food on the table for their families, are clearly being exploited.

They have been protesting out in the freezing cold. I actually had a chance to go and visit them. I've been on the phone with them continuously. It's really kind of a heart-wrenching situation. There have been attempts to resolve the situation for these 200 drivers, but unfortunately there has not been much success. I really strongly feel, as I'm sure many of you will agree, that in light of the circumstances surrounding the lockout, in light of the terms and conditions that are being imposed by the employer who has received the licences from the GTAA, that we as parliamentarians, and especially the transport committee, have a responsibility to study exactly what's going on, just to basically be able to shed some light, and hopefully the result will be a positive outcome.

There is the issue of the drivers themselves and their families and livelihoods that are being affected. As I said, they have been in lockout since December 1, which is a substantial amount of time, and that also included the busy season over the holidays. In addition, I think it's also causing a grave inconvenience to many passengers at Pearson who are having to wait hours to be able to get some sort of transport to get to where they're going. I would hope that we would find support from all members of this committee to be able to study this in this one particular meeting, which would be held, as my colleague John McCallum, said, on Wednesday, March 23, from 11 o'clock to 1 o'clock, and at which we would be able to hear first-hand from the drivers, from the owners, and from the GTAA themselves. So I would ask for your support in this motion.

Thank you.

● (1700)

**The Chair:** Thank you.

I just want to take one 30-second break to consult, and I'll be right back.

For the information of the committee, I'm seeking an answer.

If I may ask, is the dispute between the company and the taxi drivers, or is it between the company, the taxi drivers, and the airport?

**Ms. Ruby Dhalla:** It's between the company and the drivers. The GTAA, which is, obviously as we know, at arm's length, is the one that issues the licences to the actual company. Because the GTAA is supposed to be at arm's length, there is a provision within the GTAA rules that gives them the power to investigate if the person to whom they've granted the licence is not following the terms and conditions. That's why, when we put the motion forward, it was in the general context of being able to listen to all three parties to ensure that there is fairness and transparency all across the board.

If that poses any type of issue, we can—

**The Chair:** The only challenge or thought I had, and I think I did interpret it right, is it struck me as a labour issue as opposed to a transport issue.

Having said that, I'm not sure how it... It states that we're tasked and empowered to deal with other matters relating to the mandate, management, organization, or operation of the department as the committee deems fit.

I'm going to hear some comment on it before I make a final decision. I'll start with Mr. Byrne.

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** Mr. Chair, the issue of ground transportation at Pearson International Airport has been an issue for quite some time. If one were to look at a potential issue within the federal jurisdiction, I believe this issue is worth studying by the committee because it does refer to exactly what autonomous powers were indeed granted to airport authorities in the performance of their operations and administration of the national transportation system, the national airport system.

There is a serious problem at Pearson International Airport, and it has not been just since December 2010. I know from personal experience that Pearson has had issues with its taxi service, its ground transportation service affecting passengers, for at least four years.

From the point of view of being able to look at this particular issue itself, I think the committee has an opportunity not only to investigate the specifics but then, as well, if we so decide, to determine whether or not it does have some impact on the nature of the agreements between the Government of Canada, Transport Canada, and the airport authorities in the administration of their duties to provide efficient and effective transportation systems in this country.

• (1705)

**The Chair:** I have Mr. Warkentin, and then Mr. Laframboise, Mr. Fast, and Mr. Watson.

**Mr. Chris Warkentin:** I'm just looking for some clarification. My understanding is that cab drivers, even at the airports, aren't necessarily federally regulated, and unless I'm mistaken, they aren't even an entity of the airport itself.

I'm just a little bit confused about how this would apply to this particular committee. If they are federally regulated, I could see it going to a committee that's seized with labour issues.

That's a question. I do know it's a concern. I know my Conservative colleagues from the area have been concerned about the issue and have been hoping this would come to a resolution.

I understand an arbitration meeting is coming up. I don't know that any committee would want to be sitting pre-dating or during an arbitration meeting. I'm hearing this may be under way.

**The Chair:** I'll ask Ms. Dhalla to respond.

**Ms. Ruby Dhalla:** Arbitration has been scheduled for March 9, and I don't think anyone in the House would want to interfere with that. That's why the amendment was made for March 23. They have had a number of meetings. Unfortunately, there hasn't been a successful outcome.

Just to mention, in terms of what the chair and my colleague were saying, this is not just about a labour dispute. I've been elected for six years and this conflict and tension has been going on for the last four or five years. I think the committee has a responsibility to investigate exactly what is going on when the GTAA is issuing the permits to these employers, and all these types of allegations are being brought forward.

It's not really a labour issue. I think it goes beyond that. It goes to the department, to the management of the GTAA, which is ultimately a responsibility under the Government of Canada and the Ministry of Transport. That's why I think it's important that we find out exactly what's going on with regard to those services.

**The Chair:** Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** Mr. Chair, Ms. Dhalla's point of view is interesting. As you know, in 2009-2010, and even well before that, I sat on this same committee. In Montreal, all the Bloc Québécois MPs had to step in with the Aéroports de Montréal, which issues permits differently than they do in Toronto. In both cases, it's the airport authority.

There was a real commotion about the issuing of permits. There were arrests following a bribery case. Also, there were various incidents of influence peddling. Aéroports de Montréal resolved the problem before the matter came before the Standing Committee of Transport, Infrastructure and Communities. We had also told Aéroports de Montréal that we would look into the situation if the people involved did not resolve it.

In my opinion, it would be worth taking an interest in the situation in Toronto. Mr. Chair, you are wondering about your responsibility. It's the airport authorities that issue the permits and, in my opinion, those authorities are under the committee's responsibility.

Obviously, I understand what you want to say about labour relations. I suggest that you at least make the people from the Toronto airport authority appear. If we want to understand the taxi drivers' case, perhaps we should ask questions of the owners and the drivers themselves.

But, let's make people from the Toronto airport authority appear to find out how they are proceeding and how these problems arose. Issuing permits is the responsibility of the airport authorities.

[*English*]

**The Chair:** *Merci.*

I have Mr. Fast.

**Mr. Ed Fast:** Thank you, Mr. Chair.

Let me start off my comments by saying that I don't in any way diminish the importance of labour disputes and a speedy resolution of those. Over my years, I've been a member of two unions. I've been a part of strikes. I've also been on the management side of strikes.

So I have enough experience to know that these disputes should be resolved in a speedy manner. Whether it's the role of this government, and more specifically this committee, to intervene in this dispute, even by looking at it and investigating, is a different matter altogether.

Actually, Mr. Chair, I'm going to raise a point of order and ask you to rule that this motion is out of order.

I'll give you the reasons why; they have nothing to do with my sentiments on either side of that dispute, because I don't know much about it.

I will say this, though: if you look at the motion that's before us, it is not at all clear what the subject of that motion is. One of the key elements of a notice of motion is to provide notice to members of the committee on the matter that they will be dealing with. All we know is that the reference in the motion is to "study the current situation with regard to airport limousine drivers". Now, is that a salary dispute? Is that a dispute over access to spots at the airport? Is it a dispute over scheduling, profitability, licensing? We don't know what it is. It just refers to "the current situation". Of course, as a newcomer to this committee, I have no idea what the background is. I come here quite unprepared for the matter we're discussing.

For example, one of the key elements of this motion—if we understand it to involve a labour dispute between taxi drivers, their company, and the GTAA—will involve trying to determine whether or not we have any jurisdiction at all to deal with this. As we deal with providing notice, we have to determine whether the labour dispute in hand is even one that is federally regulated. We don't know; we haven't had an opportunity, from the notice we've received, to make that determination. We didn't know it involved a labour dispute.

For example, I've just asked staff behind me to try to determine, does the GTAA actually issue licences? I haven't confirmed that for myself. Are these taxi drivers in any way regulated under provincial law? I don't know that. I don't know even the name of the company that they have their dispute with.

This whole purpose of providing a notice of motion is to give advance notice sufficient to provide members of this committee with information at hand in order to do the research and be able to debate this out of some position of knowledge.

That's why, first of all, I believe the notice of motion is out of order: it's simply too vague and doesn't actually provide this committee with the information it needs.

The second issue, of course, has already been raised: this is essentially a labour dispute. We have another committee of Parliament, I believe, that is more appropriate to address a labour issue. It certainly doesn't fall within the purview of this committee to address labour issues. Even if they are labour issues that fall under the Canada Labour Code, the mandate of this committee, even the

scope of the mandate of this committee, I don't believe can accommodate that kind of study or review.

Finally, perhaps the most important aspect of it, as Ms. Dhalla has stated...and I very much respect her intervening on behalf of the taxi drivers, but under the principle of *sub judice*, any matter that is presently before the courts, or is being litigated in one manner or another, ought generally not to be the purview of this committee until that dispute has been disposed of in a final way.

• (1710)

This study has been put off until March 24. There is a very high chance that any determination at arbitration might be appealed. The arbitration might be delayed, so to establish a date now would probably be unwise.

Quite aside from that, the fact that this matter is currently the subject of a dispute that is within a quasi-judicial body would compel us as a committee not to deal with it until after that dispute had been resolved.

Mr. Chair, I would ask that you rule this motion out of order, not because I necessarily oppose the matter that appears to be the subject of this, but because it violates the principle I mentioned, plus the motion itself hasn't provided us with the kind of notice we'd need to properly debate it at this committee.

Thank you.

• (1715)

**The Chair:** Thank you, Mr. Fast.

I do have three other people on the list who I would like to hear from before I make a decision on this.

Mr. Watson.

**Mr. Jeff Watson:** Are you asking for discussion on the point of order or on the motion?

**The Chair:** It would be appropriate to be on either.

**Mr. Jeff Watson:** Okay. I do have a couple of thoughts. First of all, the fact that an arbitration meeting exists speaks to a labour dispute. My great concern in having a meeting like this is that trying to use the GTAA, if you will, through the peripheral issue of some provision regarding an investigation about licensing, which would presumably affect or take into account the conduct of the business and not necessarily the conduct of drivers, may affect the outcome of a labour dispute. Precisely such things should give the committee great pause about whether or not it is involved in an internal labour dispute.

It is not a licensing issue we are looking at. It's not a transport issue we're looking at. This is an internal labour dispute.

If there are issues to look at that are peripheral or otherwise, I think Mr. Fast's counsel is probably the wisest. Let the labour dispute itself be entirely resolved, and let's see if there are other issues to look at. This could end up in the courts at some point. I think we would be wise to steer clear of it for the time being. The motion itself may be premature.

I do have a concern with the ultimate aim of doing this. Do opposition members contemplate a change to licensing provisions? If so, let's speak now. I'd love to hear that.

The danger here exists in perhaps raising the profile of one side over another in a labour dispute. I hope the opposition doesn't want to involve the committee in picking sides in that dispute or to be seen to be picking sides in that dispute or offering a platform for any member to possibly pick sides in that dispute.

If this motion is actually accepted and we move forward with it, I think we will be moving in very dangerous territory. I would caution the committee against adopting the motion.

I would be interested to hear your ruling on whether it's in order. I don't believe it is in order.

That's all I need to say right now.

**The Chair:** I have Mr. McCallum.

**Hon. John McCallum:** Thank you, Mr. Chair.

Most of the arguments we've just heard are about reasons to vote yes or no for the motion, not reasons as to why it is or is not in order.

I would argue a similar point to what Mr. Laframboise did. I am saying a similar thing. We are talking about the governance of airport authorities, and that is certainly a legitimate question for this committee to investigate. Whether one wants to do it is a different question on which one can vote, but I would argue that it is in order.

• (1720)

**The Chair:** Mr. Byrne.

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

On the point of order itself, it seems to me there's absolutely no doubt there is a federal jurisdiction involved in a matter of federal governance over the Canadian transportation system. The federal government provided opportunities for the Greater Toronto Airport Authority to enact, to the benefit of all Canadians, an effective and efficient airport system. For all practical purposes, it is Canada's largest airport, handling the greatest number of aircraft, passengers, and freight cargo in the entire country.

There's a dispute that stems in part from the approach that airport authority has taken in dealing with some of its suppliers. I say "in part" very deliberately. As a member of this committee, I would like to analyze and determine if there is cause for further study.

There is a very broad motion before us, and you will determine if it is in order or not. It's very targeted in terms of the timeframe this committee is prepared to allot to investigate it. But it seems to me that in its scope and general application, it's totally in keeping and consistent with other studies this committee has undertaken.

I would caution you as chair about ruling that because a quasi-judicial function will be conducted some time in the future, it is inappropriate for this committee to hear witnesses involved in that.

I'll raise a hypothetical example. Say, for example, that during the conduct of the study on rail safety there was a dispute between railway personnel and the company over a serious safety issue and as a result there was a work stoppage. We would effectively be suggesting that we would be unable to draw in, as witnesses, those

who were involved in that issue while we were conducting the study on changes, amendments, or proposed amendments to the Canada Railway Safety Act. That would not be a very healthy situation for this committee to find itself in.

From that point of view, I would simply say we're not studying legislation or any particular matter; we are studying a situation that is understood and known to be under way at an airport authority that has been granted certain rights and privileges as a result of a decision of the Government of Canada.

I would like to know, as a member of this Standing Committee on Transportation, Infrastructure and Communities, whether or not our fiduciary responsibility as a government and a committee is being acted upon to determine whether or not those powers, rights, responsibilities, and privileges granted to the airport authority are acceptable.

**The Chair:** I have two more names on the list, and then I am prepared to make a ruling.

Mr. Warkentin.

**Mr. Chris Warkentin:** Thank you, Mr. Chair. You're probably talking about the general motion at this point. I don't want to speak to whether or not it's in order, except to ask a question.

Mr. Byrne spoke about the necessity of investigating airport authorities, but I recall from Ms. Dhalla's comments that it's McIntosh who is the owner of the company in dispute right now. I don't know if McIntosh is a subsidiary of the Toronto Airport Authority or if it falls under provincial regulation, or even city regulation, as it applies to these permits and labour laws. I'm not sure where the federal aspect comes into this. It seems very tenuous, at best.

Maybe if there were a motion that asked the committee to review the application of transportation by airport authorities across the country, that might be a bit more in line with the mandate of this committee. If that were the case, I have some issues I'd like to bring up from my own airports.

There was another case that the City of Calgary recently dealt with relating to the cabs and limousines at that airport. I looked into whether there was federal involvement in that, and I was hard pressed to find any issue the federal government could be involved in as it relates to those transportation sectors. Once people are outside the airport, there is nothing that the federal government regulates.

I really don't see how this could possibly fall under the federal jurisdiction, unless I'm missing something. Maybe the federal government owns McIntosh, or maybe the airport authority owns McIntosh. Or maybe the federal government has given McIntosh some money. If that's the case, then I think we better follow the money, and maybe my committee of government operations and estimates would do that.

I don't know if McIntosh is owned wholly or in part by the airport authority or if it's owned in part or wholly by the federal government. That's the only way I could see that the cab companies would fall under review of this committee or a committee of the federal Parliament.

• (1725)

**The Chair:** I'm going to ask Ms. Dhalla to respond.

**Ms. Ruby Dhalla:** McIntosh is not owned by either the GTAA or the federal government. The responsibility does stop with the GTAA, which is ultimately the responsibility of the Government of Canada and the Department of Transport in terms of the manner in which they're issuing licences to these individuals or employers.

**Mr. Chris Warkentin:** Mr. Chair, I thought Ms. Dhalla spoke about the dispute being between the drivers and McIntosh. It relates to the purchasing and selling of cars without any paperwork, the dispatching fees the drivers are being charged by McIntosh, and the exorbitant fees they're having to pay for the refurbishment of cars.

I see that as a dispute between the drivers, who are independent business owners, and the company, which is obviously a private commercial entity. The federal government owns no part of it, nor does the airport authority.

I still don't understand how the federal government would get involved with this. Should the federal government step in to say that the federal government should now own all of those cars? Or should

the federal government get involved to say that the government would now regulate how much the company could charge its independent operators for refurbishment of cars? Or should the government regulate the dispatching fee?

I don't know what the end result would be, or what this committee could recommend. If it's simply to say we're going to be a peacemaker, I don't know of any time that the federal government has been involved and the end result was that they said "Okay, we'll make peace because you guys make a lot more sense than we do."

I just don't see where the federal involvement is.

**The Chair:** The list is continuing to grow.

I would like to take the time to get more legal advice on this. I will rule at the beginning of the next meeting, if that's suitable, which would be Tuesday. Okay?

Are there any other comments?

The meeting is adjourned.

---





**MAIL  POSTE**

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

**Lettermail**

**Poste-lettre**

**1782711  
Ottawa**

*If undelivered, return COVER ONLY to:*  
Publishing and Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,  
retourner cette COUVERTURE SEULEMENT à :*  
Les Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of  
the House of Commons

### **SPEAKER'S PERMISSION**

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and  
Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5  
Telephone: 613-941-5995 or 1-800-635-7943  
Fax: 613-954-5779 or 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the  
following address: <http://www.parl.gc.ca>

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

### **PERMISSION DU PRÉSIDENT**

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les  
Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5  
Téléphone : 613-941-5995 ou 1-800-635-7943  
Télécopieur : 613-954-5779 ou 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à  
l'adresse suivante : <http://www.parl.gc.ca>