

IN THE FEDERAL COURT OF APPEAL

BETWEEN:

DR. GABOR LUKACS

Appellant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**AFFIDAVIT OF BARBARA CUBER
SWORN DECEMBER 16, 2013**

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Canadian Transportation Agency
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- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**AFFIDAVIT OF BARBARA CUBER
SWORN DECEMBER 16, 2013**

I, Barbara Cuber, of Gatineau Québec, solemnly affirm:

1. I am Legal Counsel at the Canadian Transportation Agency (the Agency);
2. On December 13, 2013, I searched the website of Library and Archives Canada and found an entry for a document entitled “*Bill C-14 : clause by clause*, Ottawa : Transport Canada, 1996” (the clause by clause), a printout of which is attached as Exhibit A;

3. I followed the links on the webpage toward the location of the document and was directed to a page entitled "Interlibrary Loan Information", which included the following telephone number: 613-995-7508. A printout of the series of webpages I followed is attached as Exhibit B and contains one page entitled "Locations" and another entitled "Interlibrary Loan Information";
4. I called the number 613-995-7508, which led me to speak to a representative who identified herself as Josée at the Library of Parliament's Resource Access Services;
5. I was told to send a request to the e-mail address appearing on the "Interlibrary Loan Information" webpage associated with the entry, namely illpeb@parl.gc.ca, in order to obtain a copy of the document. A printout of the e-mail request I sent is attached as Exhibit C;
6. In response to my request, I received a telephone call from Josée and was told that the document was situated in the Library of Parliament's storage facility at 45, Sacré-Coeur Boulevard in Gatineau, Québec;
7. I was asked to wait to receive instructions about how I might consult the document. Within a few minutes, Josée called me again to say that staff of the Library of Parliament had found the document and that I could consult it at the storage facility;
8. At the Library of Parliament's storage facility, I was met by Library of Parliament staff person Jeanne Beaudry Tardif, who directed me to a table where the clause by clause had been placed;
9. The clause by clause was contained in a black, three ring binder. The binder contained the clause by clause and a booklet entitled "The Canada Transportation Act" which was published by Transport Canada and dated June 1995;

10. I compared the Library of Parliament's copy of the clause by clause to the copy of the clause by clause which is in the possession of the Agency and noted that the documents appeared to be identical;

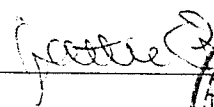
11. More specifically I compared the analysis pertaining to section 17 of Bill C-14 on page 13 of the Agency's copy of the clause by clause, a printout of which is attached as Exhibit D, with the analysis pertaining to section 17 of Bill C-14 on page 13 of the Library of Parliament's copy of the clause by clause, a printout of which is attached as Exhibit E, and noted that the texts are identical;

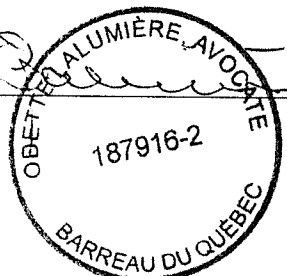
12. Using the Library of Parliament's photocopier on site, I made a photocopy of the entire contents of the Library of Parliament's copy of the clause by clause, including a photocopy of the front and spine of the black, three ring binder in which the clause by clause is contained. I also made a copy of the booklet which is also contained in the binder;


13. I asked a staff person at the Library of Parliament to put a stamp of the Library of Parliament on the photocopy I made of the page of the clause by clause entitled "Introduction", a photocopy of which is attached as Exhibit F;

DATED at the City of Gatineau, in the Province of Quebec, this 16th December, 2013.

SWORN BEFORE ME at the City of Gatineau,
in the Province of Quebec, this 16th day of
December, 2013.







A

Barbara Cuber

16 December 2013

Odette Lalumière





Full Record

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AMICUS No. 41224628
Monograph

NAME(S) : *[Canada. Transport Canada](#)
[Canada. Parliament. House of Commons. Standing](#)
[Committee on Transport](#)

TITLE(S) : Bill C-14 : clause by clause [analysis briefing book] =
Projet de loi C-14 : analyse article par article :
[cahier de breffage]

PUBLISHER: [Ottawa : Transport Canada = Transports Canada], 1996.

DESCRIPTION: 1 v. (various pagings) ; 30 cm.

NOTES: Parallel title: [Projet de loi C-14 : analyse article par article : \[cahier de breffage\]](#)
Spine title: [Bill C-14, Canada Transportation Act \(35-2, 1996\)](#)
Prepared for the Standing Committee on Transport of the House of Commons.
"This clause by clause analysis introduces each Part of the Bill with a general summary and background for that part. It then comments on each section of the Bill"
--Introd.
Cover title.
Text in English with French version at the end.

CLASSIFICATION: LC Class no.: [J103 H7 35-2 T7 A14](#)

SUBJECTS: [Railroad law--Canada](#)
[Transportation--Law and legislation--Canada](#)
[Chemins de fer--Droit--Canada](#)
[Chemins de fer--Droit--Canada--Législation](#)
[Transport--Droit--Canada](#)
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Created: 2002-07-08
Updated: 2003-11-19

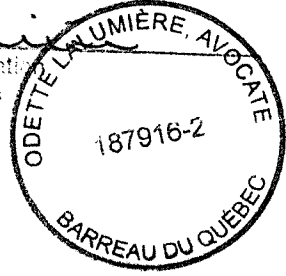
[Top of page](#)

[Terms and Conditions](#)

Ceci est la pièce B de l'affidavit
This is Exhibit referred to in the Affidavit
de Barbara Cuber
of

assérmenté devant moi ce 16 jour de December 2013
sworn to before me this day of

Odette Jacquin
Commissaire à l'assérmentation
Commissioner for Oaths





Library and Archives
Canada

Bibliothèque et Archives
Canada



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Locations

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AMICUS No. 41224628

1 Location(s)

Canada. Transport Canada. Bill C-14 : clause by clause [analysis briefing book] = Projet de loi C-14 : analyse article par article : [cahier de breffage]. -- [Ottawa : Transport Canada = Transports Canada], 1996.

The information below is provided for interlibrary loans (ILL). To request the item, contact your local library for ILL services available to you.

Library	Holdings Summary	Available for ILL
OOP	KE2149	Yes

Created: 2002-07-08
 Updated: 2003-11-19

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Library Symbol OOP
Library Name Library of Parliament/Bibliothèque du Parlement

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Monographs 4 weeks, no renewals
Serials No loan
Charges Photocopy – \$5.00 min. charge
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Address Interlibrary Loans
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Telephone 613-995-7508
FAX 613-943-7079
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WHO Code LPT
OCLC Symbol BDP

Library Type Government library

Note: The Interlibrary Loan Directory is based on data supplied by Canadian libraries. Though Library and Archives Canada makes every effort to obtain current information from Canadian libraries, it is possible that library policies and addressing information may have changed. Please notify the [National Union Catalogue](mailto:union.catalogue@bac-lac.gc.ca) (union.catalogue@bac-lac.gc.ca) at Library and Archives Canada of any revisions to your profile in the directory.

Ceci est la pièce C de affidavit
This is Exhibit referred to in the Affidavit

de Barbara Cuber
of

assermenté devant moi ce 16 jour de December 192013
sworn to before me this day of

Odette Lalumière
Commissaire à l'assermentation
Commissioner for Oaths



From: Barbara Cuber
To: illpeb@parl.gc.ca
CC: Lessard, Simon-Pierre
Date: 13/12/2013 10:17 AM
Subject: Request for document Bill C-14 Clause by Clause in pdf format

Good morning,

Following a conversation I had by telephone with a representative of the Library of Parliament this morning, I am sending a link from Library and Archives Canada to the entry for the document I am seeking. I understand that you will be able to send this document to me in pdf format by e-mail.

http://amicus.collectionscanada.gc.ca/aaweb-bin/aamain/itemdisp?sessionKey=999999999_142&l=0&v=0&lv=1&itm=41224628&d=2&all=0&rsn=&dt=&spi=-

If there is any other information I can provide, please let me know.

Sincerely,

Barbara Cuber
Avocate / Counsel
téléphone/telephone 819-953-2236 | télécopieur/facsimile 819-953-9269
barbara.cuber@otc-cta.gc.ca
Office des transports du Canada | 15, rue Eddy, Gatineau QC K1A 0N9
Canadian Transportation Agency | 15 Eddy St., Gatineau QC K1A 0N9
Gouvernement du Canada /
Government of Canada

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Ceci est la pièce D de affidavit
This is Exhibit referred to in the Affidavit

de Barbara Cuber
of

assermenté devant moi ce 16 jour de December 192013
sworn to before me this day of

Odette L. Lumière
Commissaire à l'assermentation
Commissioner for Oaths



Quorum

s. 16 **Substance Unchanged** **Reference:** *NTA s.22(2)-(4)*

Description

- ◆ This establishes a quorum at 2 members but can be reduced or increased under the Agency's internal rules (s.16(1). If a member dies or is incapacitated during a hearing and a quorum is lost, the Chairperson may, upon consent of all parties to the proceeding, authorize another member to step in to hear and conclude the matter (s.16(2)). Where death or incapacity of a member arises and a quorum is not lost, another member may be assigned to hear and conclude the matter (s. 16(3)).

Rationale

- ◆ These provisions ensure continuity of Agency decision-making and are intended to avoid hardship to persons appearing before the Agency in matters that would otherwise have to re-start in circumstances where a member dies or is ill.

Rules

s. 17 **AMENDED** **Reference:** *NTA s. 22(1)*

Description

- ◆ The Agency may, without having to seek approval from the Governor in Council, make its own rules governing its procedures such as Agency sittings, "closed door " hearings and other internal matters.

Rationale

- ◆ This provision makes it clear that the Agency's only rule-making authority is in respect of internal matters.

Head Office

s. 18 **AMENDED** **Reference:** *NTA s. 20*

Description

- ◆ The head office of the new Agency shall be in the National Capital Region and only the Chairperson is required to reside in that Region. Provision for regional offices has been deleted.

Rationale

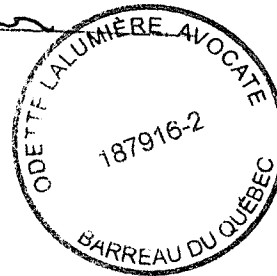
- ◆ The *NTA, 1987* required all permanent members to reside in the National Capital Region or in the locality of its regional offices. Given the reduced size of membership in the new Agency only the Chairperson is required to reside in the vicinity of the head office, i.e. the National Capital Region.
- ◆ In keeping with government streamlining and the downsizing of the Agency, provisions for regional offices have been removed.
- ◆ in Council appointments. As a federal regulatory tribunal, Agency staff will be federal public servants.

Ceci est la pièce E de l'affidavit
 This is Exhibit referred to in the Affidavit

de Barbara Cuber
 of

assermenté devant moi ce 16 jour de December 199 2013
 sworn to before me this day of

Odetta Spasiani
 Commissaire à l'assermentation
 Commissioner for Oaths



Quorum

s. 16	Substance Unchanged	Reference: <i>NTA s.22(2)-(4)</i>
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Description

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Description

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Head Office

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of

assermenté devant moi ce 16 jour de December 1992013
sworn to before me this day of

Odette Lalumière
Commissaire à l'assermentement
Commissioner for Oath-taking
ODETTE LALUMIÈRE, AVOCATE
187916-2
BARREAU DU QUÉBEC

CANADA TRANSPORTATION ACT

INTRODUCTION

This clause by clause analysis introduces each Part of the Bill with a general summary and background for that part. It then comments on each section of the Bill.

Legend for Clause-by-Clause

S.# - indicates Section number under Bill C-14.

Reference - indicates section number from other Acts for cross-reference purposes.

S. 97 AMENDED [SCOT CHANGE] Reference: *Railway Act, 1825*

[SCOT CHANGE] - indicates further amendments introduced by House of Commons Standing Committee on Transport

NEW - indicates a new provision in the Bill
AMENDED - indicates a provision carried forward from the NTA, 1987 (or other Acts) with substantive amendment
Substance Unchanged - indicates a provision carried forward from the NTA, 1987 (or other Acts) either unchanged or with possibly language simplified.



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OFFICE OF THE CLERK