

tracks as trains approach. These are some concerns which need to be resolved in committee.

Another concern which I believe is slightly relevant to some of the constitutional matters we have in front of the House today is that there could be a procedural problem. The government might pass a law that could be ultra vires in the sense that if it asks the municipalities to do something the federal government is really responsible for, they could tell us that if we are passing that kind of a law, we should be responsible for the expenditure of money. This is a concern that needs to be aired in committee.

I see the parliamentary secretary making some kind of a motion with his head. I do not know if he is agreeing with me or disagreeing—

**An hon. Member:** Which way are you shaking it?

**Mr. Mayer:**—but I would say that this is certainly something we need to consider.

I would not want to be in a position of requiring a municipality or city to carry out a responsibility which falls within their jurisdiction. The municipality could certainly say to us that we do not have any authority in this area whatever, that it is purely a provincial, municipal or urban responsibility, and as such it is outside our area of jurisdiction, even though we are all concerned with safety, particularly the safety of children. These are some of the concerns I have regarding the bill.

As I said, we have a very excellent transport committee which has not been particularly active since the first of the year. If the bill does have an opportunity to get to committee, based on what is in front of us—although we do now have the transport department's estimates, and they will require a considerable amount of our time—I think we will be in a position to look at it fairly quickly. All we have done in committee this calendar year, 1981, has been to examine the president of the CNR, Dr. Bandeen. So we have not been particularly active in the transport committee.

I would again congratulate the member for bringing forward the bill, because it reflects the concern we have for the most important resource any country has—its people. We all have a particularly soft spot in our hearts for children, and proposals on how to protect them from freight or passenger trains should be very well received and considered.

With those remarks I will close, Mr. Speaker.

**Mr. Les Benjamin (Regina West):** Mr. Speaker, I just rise for a few moments, so we may be able to adjourn for supper earlier than six o'clock. I have only a few remarks to make. I want to say to the Parliamentary Secretary, to the President of the Privy Council (Mr. Collenette) that the intent of the bill is laudable and we agree with it. I only wish that a number of other items were incorporated in the bill: grade crossings, signal systems—a whole host of items on which the government has cut back, particularly in urban centres, right across Canada. As I say, the intent of the hon. member's bill is laudable and we agree with it; but it does not simply relate to the safety and protection of children. The entire history of

### *Railways*

railway lines through urban centres shows that children and adults have been killed or injured by trains, and on the other side of the coin, people who play around with switches and switch lamps and signals can cause mishaps on railway lines passing through an urban centre or in a railway yard.

I would like to say to my hon. friend, through you, Mr. Speaker, that there have been many more mishaps, damage and injuries on that side of the coin than there have been as the result of individuals being struck or injured by trains because they happened to be crossing, standing or walking on a through right-of-way or in a railway yard.

The subject matter of the bill is one of many major amendments needed to the Railway Act. In the past there were railway right-of-way fences along all trackage across Canada, including the prairies. In my part of Canada they have all been removed. A train might run over some farmers' cows or somebody might waltz on to a right-of-way and may be struck; yet the municipalities, the provincial government, the federal government and the railways—all four levels—have agreed that we do not need those fences now because it is too hard to maintain tens of thousands of miles of only three or four-foot high right-of-way fences.

However, I agree that it is appropriate to have chain-link fences along rights-of-way through thickly settled suburban and downtown areas in cities and large towns in Canada. I hope that the government will allow the hon. member's bill to go to the committee, although there will probably be some fun with it there, and I will not mention anything about rules. I hope also that when the government is considering the bill in committee it will consider other matters which require amendments to the Railway Act.

Federal funding should probably come from the railway crossing fund, which is pretty well non-existent. It is called the UTAP, the Urban Transportation Assistance Plan. If that is where the federal government's share of funding is to come from then the funds provided should be increased. Funds should not be taken away from grade separation or rail line relocation. There should be additional funding. If it is left only to the railroads and the municipalities, I suspect that not much will happen other than prolonged arguments, and nothing will be done about fencing. That is why it is suggested that fencing should qualify for assistance under the grade crossing fund or UTAP, or whatever they call it now; but the funds must be increased.

We have had some bitter experiences in this whole area. Money promised in 1974 for urban transit is now being spent to meet ongoing commitments for grade crossings. Funding for both urban transit and grade crossings needs to be expanded. If this kind of fencing is to be installed in urban centres, it will require additional funds. Otherwise, funds will have to be reduced for urban transit, grade crossings and rail line relocation.

• (1730)

The Urban Transportation Assistance Program has money which is not being spent in the third, fourth and fifth year but