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Chair

Mr. Merv Tweed

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• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Thank you, and good afternoon, everyone.

I'd like to welcome our guests joining us here today: Mr. Christian Jobin, Paul Gantous, Robert Dalpé, and we have Joanne Fisher and Brian Allen online. Basically we are here studying Bill C-11, An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts.

I would like to ask Mr. Jobin to start, and we'll go through the presentations and then we'll have questions from the committee. Please begin.

[Translation]

Mr. Christian Jobin (Coordinator): I would like to thank the members of the Transport Committee for inviting us here today.

I represent thousands of citizens, including the shunting yards in a number of Quebec municipalities, including Sainte-Foy, Limoilou, Charny, Saint-Jean-Chrysostome, for the Quebec region and Outremont, Côte-Saint-Luc, Mont-Royal, Pointe-Saint-Charles, and Old Montreal, for the Montreal region.

We are seeking to restore tranquillity and promote a harmonious cohabitation with the railway companies. The problem only began in 1998, when CN was privatized, at which time the shunting yard operations increased. Our group is not against development. However, we would like to be able to all live together in harmony. The concern over greenhouse gas emissions will cause an increase in the use of rail and marine transportation. We are in favour of that change. However, we would like CN and other railway companies such as CN and CP to take the necessary steps to mitigate noise for the benefit of those residents who live next to the shunting yards.

We did not come here today to provide solutions for the railway companies, even though it is a well-known fact that in Europe, many countries have found a way to promote a peaceful existence between local residents and the railway companies. For example, some have built underground shunting yards. And some railway companies use pneumatic noise dampening systems.

The term “unreasonable noise” is used in Bill C-11. Bill C-26 stated that attempt should be made to reduce noise. What we are asking is for railway companies to avoid generating noise that could affect the health or quality of life of citizens.

Unreasonable noise is a qualitative concept. We would like these measurements to be quantitative, and determined by the use of

systems that will measure the decibel level, both during the day and at night. We would also like to see a national railway noise reduction policy similar to what is now being done in Europe, where railway shunting yard noise is monitored 24/7. Railway companies there must correct any shortcomings by implementing new technology, including research and development.

We know that CN is doing well and making money. We think that some of that money should be used in research and development to promote noise reduction and make things easier on surrounding neighbourhoods. We would also like Canada's Transportation Agency to have the power to issue orders with specific deadlines to settle problems caused by the shunting yards.

Bill C-26 provided for a 30-day period. It is 60 days in Bill C-11. We would like a return to the 30-day period for settling a dispute. In Charny, for example, there was a mediation committee that lasted 18 months. No report was ever written and no recommendations were made by CN.

As I said earlier, I represent thousands of citizens. These people have reached the end of their rope. From May to September, they have to keep their windows closed. If Canada's Transportation Act is not amended, their health will be in serious jeopardy. There are people in Charny whose health is seriously affected. Something must be done now. I am a former member of Parliament. I worked on Bills C-26 and C-44, which died on the *Order Paper* when Parliament was prorogued in November 2003 and an election was called in June 2004.

We would like to see Bill C-11 passed and the word “unreasonable” replaced by another term, something relating to the fact that noise must not affect the health of citizens, as well as a provision to quantify noise levels both day and night.

We are in favour of the development of rail transportation, but it must be done in a way that will respect the citizens. We would also like the railway companies to abide by all relevant municipal and provincial regulations. If an individual citizen were to make as much noise as the Charny shunting yard, he would immediately be charged with a noise violation. We are up against a very noisy company that we are powerless to do anything about.

We are asking you to allow those living near the shunting yards to avail themselves of their right to live in peace, by implementing monitoring measures similar to the ones that now apply in European countries.

I would like to thank the members of the committee.

• (1540)

[English]

The Chair: Thank you.

Mr. Dalpé.

[Translation]

Mr. Robert Dalpé (Comité Anti-Bruit): Thank you, Mr. Chairman, for inviting me here today to speak to you about Bill C-11.

For the past 10 years I have lived next to the Hochelaga shunting yard. On my own, as well as with some of my neighbours, and more recently, with the support of my member of Parliament, Mr. Réal Ménard, I have made a number of attempts to deal with this issue; since there is no regulatory framework, we were unsuccessful.

We would very much like to see Bill C-11 passed as soon as possible, with the following minor adjustments. In the interest of clarity, I will deal with only two points, which I intend to emphasize.

The first relates to the lack of a regulatory framework to deal with the environmental impact of railway activities. The court decision to amend the mandate of the Canadian Transportation Agency has left a void when it comes to enforcing environmental standards in this area. Other modes of transportation have environmental standards and mechanisms to enforce them. In the case of the railways, the people in charge of the regulations suggest that we negotiate with the railway company management. As individuals with limited means, we must try to have the standards enforced, standards which, for the time being, are none existent. Moreover, as has already been said, there is no one to arbitrate a disagreement between the two parties. Therefore, I would first emphasize the importance of having a regulatory framework and allowing the Canadian Transportation Agency to enforce environmental standards.

I will now address my second point.

Bill C-11 deals with noise. That is the only concept that is stated exclusively. We would like other aspects to be included, so that things are perfectly clear. The Transportation Agency itself constantly raises the three following points: noise, smoke and vibrations. Let's look at pollution caused by odours and smoke. What we hate even more than noise coming from the Hochelaga shunting yard is smoke pollution. The engines are not well maintained, and there is often a chronic problem with locomotives idling, which is really a euphemism. These engines run for hours but they don't go anywhere.

At the moment, there is no regulation for these companies and nothing that is enforced by any federal government body. So these engines can idle for hours, which causes pollution and—this is something that never ceases to amaze us—a huge waste of fuel.

In closing, I would say that I would like to see a regulatory framework specific to environmental issues applied to rail transportation, something that is similar to the rules for other modes of transport. There should be penalties included, and they should be enforced by a recognized authority. Moreover, the regulations should

promote a better protection of the environment. That would include noise, air quality, energy saving and the health of our citizens.

• (1545)

[English]

The Chair: Thank you very much.

Mr. Gantous.

Mr. Paul Gantous (ProPointe): Hello, my name is Paul Gantous. I represent a small group of residents in Pointe St-Charles, which is in the centre-south district of Montreal. We live very close to the Alstom rail yards.

My brief is pretty much in line with and very similar to the briefs you've already heard. We have the same concerns. In our opinion, the amount of shunting noise that's going on—it's been going on the same amount of time, since 1998-99—in the neighbourhood, close to people's houses, especially at two, three, and four in the morning, has increased exponentially.

I won't repeat some of the points these gentlemen have made already. I'll just point out the three things that are of great concern to us. One, as has already been said, there's no qualification of noise regulation in Bill C-11, and we believe it should be tied to the World Health Organization's community noise guidelines. The numbers are in our brief, but I'll just quickly mention that at night there should be a decibel level of no more than 30 decibels within a bedroom, which corresponds to 45 decibels outside the house.

Something that concerns us in the language of Bill C-11 itself is in the proposed section 95.1 of the Canada Transportation Act. It's just one line, paragraph (b), which says “taking into account...(b) its operational requirements”, referring to the railway company's. We're worried that this can be used to override the intent of the law. If the intent of the law is to protect people from excessive noise in the middle of the night, but the railway company can just come back and say yes, but we have operational requirements, it's equivalent to a “notwithstanding” clause in relation to paragraph (a). We're worried about that and would like to see paragraph (a) take precedence over paragraph (b).

The other thing we're very concerned with is the carrying and the parking of toxic chemicals in these trains, toxic chemicals that are parked in our neighbourhood, toxic chemicals that are carried repeatedly through the heart of Montreal, through residential neighbourhoods that are very close to downtown. To look at the number of derailments, CN reported 70 in 2005, up from 49 derailments in 2004.

Just this past spring, I believe it was, there was a derailment on the Mercier Bridge going from Montreal to the South Shore. If these cars had been carrying toxic chemicals, could we have possibly been in a very dangerous situation? For anyone who lives in the neighbourhood, for anyone who happened to be passing through the neighbourhood.... Considering the proximity to downtown, the number of people this could affect would just be enormous. We're very concerned about that, let alone the fact that toxic chemicals are moving through Montreal when probably their destination is not within the city of Montreal—they could easily be routed around Montreal, but they're not—and that they're parked very often in Montreal, just sitting on the rails overnight.

What happens if there are kids playing around there? There are fences around these rail lines, but we've all been children; we've all hopped fences when we were kids. There are going to be kids getting near these cars, and the cars should not be parked anywhere that anyone can have access to them other than the rail employees. And they shouldn't be in populated centres.

Other than that, the conclusion is that we currently seem to be in a void of regulation in the train industry with respect to noise pollution. As has been said already, the municipalities and provinces are unable to apply their noise regulations where this industry is concerned.

We don't seek to remove the train industry; we seek to live in harmony with it, and we insist that we be able to coexist with them in a way that does not reduce the quality of life because of either noise pollution or fear of toxic chemicals being run through our neighbourhoods, and by an industry that seems to be running without control at this point in time.

Thank you.

• (1550)

The Chair: Thank you very much.

I'll now move to Joanne Fisher, joining us online.

Ms. Fisher, you can hear me, I hope.

Ms. Joanne Fisher (As an Individual): Yes, I can.

The Chair: Please present. Go ahead.

Ms. Joanne Fisher: Thank you.

I'm representing the residents of East Richmond, and I'd like to thank the chair and committee members for the opportunity to speak today.

CN Rail's Lulu Island yard facility is located in northeast Richmond, B.C., in the midst of a primarily residential and farming area. The main switch for the yard is situated in close proximity to No. 8 Road, a residential side street where I live, and is positioned about 140 feet from the road. The yard itself is approximately one mile in length.

I would estimate my home as being less than 200 feet from the main switch and 105 feet from the tracks. The track leading into the yard from the east cuts the street in half, with the south side of the street coming to a dead end a few hundred feet from the tracks. Residents on the south side of the tracks have no other access route.

When I moved there over 20 years ago, the operations of the yard were not what I considered to be a problem. The trains were short, with single engines and cabooses. Activity in the yard was generally five days a week and not for excessive periods, with locomotives leaving for servicing on Saturday mornings and returning mid-Sunday evenings to be ready for the Monday morning shift. Locomotives would cross the yard and pull forward at times next to where I live, but much of the work was contained inside the yard.

For years, I did not use an alarm clock. I went to bed when I heard the chain on the main gate leading to the yard being locked at about 11 p.m., when the crew finished for the night. Crews would arrive and commence work at about 7:30 or 8 a.m., at which point I'd start

my day. In the absence of late-night operations, my neighbours to the north side of my property were able to run a successful bed-and-breakfast business close to the yard for quite a number of years.

From 1992 onwards, operations in the yard dramatically changed. Increasingly, work began to be scheduled after midnight and in close proximity to homes. CN was notified as to the impact the noise had on residents, to no avail.

Now in 2006, disruptive noise from this yard occurs regularly after midnight, as well as throughout the day. It has been observed that the freight designated for assembly has often been sitting in the rail yard for several hours beforehand, with shunting not commencing until after midnight or later. Sometimes the work scheduled for after midnight is the most extensive within a 24-hour time period. In addition to the expanded schedule, CN has increased the number of locomotives kept in this yard and generally uses two or more locomotives for freight assembly.

As the trains are now longer and the infrastructure of the yard remains virtually as it has for decades, locomotives now have to constantly cross the road in order to not only access the yard but to assemble the trains. There are days when I would estimate that work takes place outside the yard in this manner for up to six hours a day, literally working in between homes.

With every crossing of the road come the piercing whistles and bells, sometimes to make a crossing of literally only a few feet. CN has been asked to use the west end of the yard in order to alleviate some of the noise, but east end assembly remains very routine.

Further concern involves the amount of time a public road is blocked during assembly, with my neighbours frequently waiting well beyond the appointed five-minute limit. Part of the concern is access in case of an emergency. With waits of 20 to 25 minutes and beyond being reported, this is a serious issue.

We attempted a bid for anti-whistling, but this was unsuccessful, with CN unwilling to accept the recommendations made by the city, the health department, and Transport Canada. This left us with the impossible situation wherein one of the busiest and noisiest crossings in a major Vancouver suburb, in terms of whistling and related noise, is in an otherwise quiet residential area.

The whistling, compounded with the drone of idling locomotives, bell ringing, and noise from shunting, has made it very difficult for this community. No distinction is made concerning the noise created, whether it be in the middle of the day or at 3 a.m. Whether it be shunting, bell ringing, or whistling, excessive noise is relentless here.

Residents have also commented that some shifts manage to perform assembly far more quietly than others. The noise from some of the night shifts have prompted some River Road residents to reorganize the location of their sleeping quarters to try to escape some of the cataclysmic sound emanating from the yard in the dead of night, to little apparent effect.

The Canadian Transportation Agency intervened in 2000. With the jurisdiction removed, conditions deteriorated further. Mediation, being on a voluntary basis, was declined by CN. Intervention and direct pleas from elected officials have been futile.

With no regulatory overseeing body, communities experiencing serious rail noise problems have no means of resolution. Rail industry self-regulation for noise issues does not appear to work.

• (1555)

I ask that the role of the Canadian Transportation Agency to both mediate and to make rulings on issues involving rail companies be strongly considered and reinstated.

The Canadian Transportation Agency is in an ideal position to fill this role, having a solid understanding of the real industry and its importance, while balancing those requirements against the basic needs of rail communities.

Thank you.

The Chair: Thank you.

Mr. Allen.

Mr. Brian Allen (As an Individual): Mr. Chairman and committee members, I would like to thank you for this opportunity to present our community's concerns and recommendations regarding the amendments contained in clause 29 of Bill C-11. With the support of Mayor Wayne Wright and James Crosty, the president of the Quayside Community Board, I am representing the interests of 2,000 residents in New Westminster who reside within 200 metres of the New Westminster rail yard.

All of us here today recognize rail yard operations can create a significant amount of noise that negatively impacts many tens of thousands of Canadians living in close proximity to rail yards across Canada. The amendments contained in clause 29 of Bill C-11 need to be significantly modified if they are to truly address the concerns Canadians have with railway noise in close proximity to high-density residential areas such as the New Westminster Quay.

We recognize that the amendments in clause 29 of Bill C-11 were formulated in a way that requires the railways and concerned parties to try to resolve the noise problem through mediation. While this may be a desirable approach, it is not one that is realistic. We have supplied the committee with our report on the New Westminster rail yard operations and the efforts made over many years by local residents to try to work with the railways to eliminate or mitigate noise emanating from the rail yards. The bottom line is that they do not see this as their problem, and they see little or no need to do anything about this problem.

We have also supplied the committee with our rationale of why the amendments contained in clause 29 of Bill C-11 should be modified to better protect the interests of all residents who reside in low-rise and high-rise apartments in close proximity to rail yards. The following are suggested changes to the amendments contained in clause 29 of Bill C-11. These modifications are only suggestions. You may know a better way of wording the amendments to meet our common objective.

We recommend that proposed section 95.1 be changed to read:

When constructing or operating a railway, a railway company must not cause unreasonable noise and must comply fully with all agency guidelines issued under subsection 95.2, taking into account a) its obligations under sections 113 and 114 if applicable, b) its operational requirements, and c) the area where the construction or operation takes place.

We also recommend that the following new subsection be added to proposed section 95.1:

Notwithstanding 95.1, where a rail yard or line is within 300 meters of high-density residential housing, railways can only shunt, couple, decouple rail cars and idle engines between the hours of 9:00 AM and 5:00 PM, Monday to Friday, excluding statutory holidays, unless authorized by the Minister of Transportation on a temporary basis during a National Emergency.

Under this proposed section, we would also recommend the following addition: "At no time shall a rail engine be left idling."

We would like to see proposed section 95.2 changed to reflect the following points:

1) The Agency shall issue and publish for public access, in any manner that it considers appropriate, guidelines with respect to a) the elements that the Agency will use to determine whether a railway company is complying with section 95.1, and b) the process of collaborative resolution of noise complaints relating to the construction or operation of railways.

2) The Agency must consult with interested parties including municipalities where there are rail operations before issuing any guideline.

3) The guidelines are not statutory instruments within the meaning of the Statutory Instruments Act.

For the balance of the amendments contained in clause 29 of Bill C-11, it is not clear what sanctions, if any, would be possible if a railway does not comply fully with an order from the agency. We need to ensure that the Canadian Transportation Agency has the authority to levy sanctions. We must also ensure that these sanctions can be enforced. Otherwise, why would the rail companies feel compelled to comply with any order or ruling from the Canadian Transportation Agency?

Mr. Chairman, I thank the committee for taking the time to listen to our concerns and recommendations regarding clause 29 of Bill C-11.

Thank you.

• (1600)

The Chair: Thank you, Mr. Allen and Ms. Fisher. We appreciate your participating in this committee hearing, albeit from a far distance.

Mr. Hubbard.

Hon. Charles Hubbard (Miramichi, Lib.): Thanks, Mr. Chair.

It appears that we have an industry that was almost involved with the birth of our country, because a lot of these rail lines and yards were established, probably, well over 100 years ago. As a result, we're dealing with four or five major issues.

Today we talk about the new Conservative government, but we might also talk about the old Conservative government, because back in the days of Macdonald, railways were given some very broad concessions in terms of what they could do.

We have talked about noise, and we have locomotive noise and we have noise of the shunt, when the cars are brought together. I guess both of those would be factors in waking you up in the middle of the night or preventing you from getting some sleep. The vibration system, of course, depends upon the type of real estate those yards are on, and, depending upon soil conditions, vibrations can travel any given distance.

Pollution, Mr. Chair, is a major issue. A lot of us recognize that many of the locomotives that are used today are very old. The engines certainly would not meet the new requirements that we're looking for in the trucking industry, beginning in the very near future. So I would think that type of pollution is something that might be looked at.

We are also talking about safety and the movement of dangerous commodities that I think railways have been fairly good in dealing with in terms of the movement. But I know that when they are within a few hundred yards of your home, it would certainly be an area that you might want to be concerned with, not only in terms of solid materials but also in terms of the movement of gases—chlorine and other materials are moved that could escape and cause very serious problems.

Maybe Mr. Jobin could comment on what he knows from other countries that deal with this. Could we use electric engines, for example, instead of diesel ones? Could we have special types...? You referred to rubber rather than steel wheels. Maybe you could give us some more information on what you've gleaned from the United States and from Europe.

I would also like to get some comments, Mr. Chair. When we dealt with the privatization of CN, we stated in that legislation that Montreal would be the headquarters of CN and it would be a very important centre of rail activity. I'm not sure if some of that activity could be moved out of the city centre, or way out in terms of areas with less population, but maybe one of the witnesses could give us his impression of what a railway company could do to move its works or to provide a better environment for everyone.

[*Translation*]

Mr. Christian Jobin: It would be hard for me to find a solution for CN, but I can give you a few ideas. I know that currently, in Europe, there is a pneumatic system to dampen the noise when trains are assembled. Here, they still do it the old way, and the engines hit the rail cars.

Also, procedures have changed in the shunting yards, which is why they are noisier. Before 1998, they proceeded manually. The engineer drove the locomotive, with a spotter standing behind the rail car. He would tell the engineer to slowdown, for example, and it was all done quietly. But that is not how they do it now. The shunting operations are remote, and a control lever is used. There is nobody driving the locomotive, which is why the vehicles bump into one another. In some areas, at night, noise can be as loud as

90 decibels, which, as you can well imagine, seriously disrupts the sleep of those living adjacent to these yards.

There are ways around this, such as, for example, using pneumatic technology. In Japan, trains are assembled in buildings. I think that we could look to countries that are older than Canada which have managed to make the areas surrounding their shunting yards a lot quieter.

I think that CN must have already done some research and development in these areas. I am not a railway professional, but I speak on behalf of citizens who have had enough. I am told that countries like Japan, and Holland in Europe, have found marvellous solutions that could be applied here. I think they even have underground shunting yards. We are not trying to tell CN what to do, but we know that something can be done to improve the way in which they operate their shunting yards, particularly with respect to the remote operations. As I explained earlier, the use of the control lever causes the metal to hit metal in the middle of the night.

Any individual citizen who would dare to make the same amount of noise would be thrown in jail, because he would be breaking the law. Yet, a company is allowed to get away with it. I think that Bill C-11 needs more teeth, in order to put an end to a problem that is widespread in Canada. We don't want to weaken the railway industry; however, its progress must not be at the expense of our citizens.

• (1605)

[*English*]

Hon. Charles Hubbard: Mr. Chair, in terms of the trucking industry, we have similar concerns in the cities, where they have so-called reefers and they keep the units going in the trucks all night. I believe in the city of Moncton, for example, they had to make sure those parking areas were outside and away from a populated area.

How could we deal with the noise in terms of measuring the amount of noise? What would happen if they couldn't meet the standards? One of the papers mentions so many decibels, whether it be fifteen, thirty, or whatever.

Would you suggest that the legislation has some standard and railways are given a certain period of time to meet that standard? How would you see this legislation being changed to enable both groups, the population and the companies, to coexist?

[*Translation*]

Mr. Christian Jobin: The Coalition québécoise contre les bruits ferroviaires would like to see a standard established to control the number of decibels allowed for day and night time activities, creating an offence for any railway company that exceeds the limit. The CTA would have the authority to intervene and give the company 30 days to make things right. If, after 30 days, the situation persists, then penalties would apply.

The word "unreasonable" has a quantitative connotation [*Note to editor: the witness strikes the table*]. Have I just made an unreasonable amount of noise? The railway company could undoubtedly justify any unreasonable noise arising from its activities by arguing financial imperatives or operational requirements. That is why we are asking that clause 95.1 be amended by adding a subclause stating that people's health must not be affected, while stipulating the exact decibel level for day and night time operations. The Canadian Transportation Agency could then order the railway companies to correct the situation within 30 days. If that is not done, they could be fined.

The concept of unreasonable noise does, to some extent, change the act, but we don't think it goes far enough in protecting the quality of life for people who live near the shunting yards. Some might wonder why these people decided to settle next to these yards.

In Charny, for example, there was a buffer zone owned by CN. It sold the buffer zone to a developer. If CN didn't want people living next to its shunting yards, it should never have sold the buffer zone. CN made the wrong decision. The buffer zone should have been maintained to protect the shunting yards. So people are living there now. Some way to reduce the noise level must be found.

• (1610)

[*English*]

The Chair: Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber): Thank you Mr. Chairman. I would also like to thank those who have taken the time to appear before the committee today, particularly the representatives of ProPointe, which is in my riding. I know that Phaedra and others, who are here today, have done a lot of work on this file. They have taken the time to come to Ottawa, and we appreciate their effort.

Mr. Jobin mentioned that CN had sold the land adjoining its shunting yard. There are also historical reasons. For example, in an old neighbourhood like Pointe-Saint-Charles, housing was built beside the railway because that is where people worked. They walked everywhere. In many cases, the problem is a recent one. People have been living next to the railways for years, but it is because rail activity has increased that we are now seeing these problems.

There are solutions. Recently, a representative from the railway equipment industry told the Standing Committee on Finance that there are quieter locomotives and shunting mechanisms. The railways should be given a tax break to buy this type of equipment. These incentives would provide a greater benefit to our citizens than the tax breaks that we give to the oil companies.

I don't know if this happened throughout Quebec, but I was told that the trains make quite a bit of noise going around curves. When a train turns, the wheels lean on the rail which causes a squealing noise. Someone from my riding told me that his dog could hear the train coming. A dog is sensitive to high pitched noises. This gives you an idea of the scope of the problem. I think everyone would agree that we have to strengthen the existing legislation.

My question is for Mr. Gantous and it deals with dangerous goods. Has CN ever told you if it has an emergency plan? Did they tell you

what specific steps they would take if a problem were to occur? Have you seen any evidence of some type of monitoring? Are these people concerned about the safety of the products that they store in your facilities?

[*English*]

Mr. Paul Gantous: As far as we are aware, no, CN has no plans in case of emergency. There's no emergency plan for evacuation and there's no emergency plan for cleanup of any chemicals that could be spilled in the area.

Just from personal experience, I can tell you that when you come home late at night you can see the cars parked not in the shunting yards but on the rails that pass through the neighbourhood. You can see the cars parked there with all kinds of chemicals. You just have to look at the side of the car to know that it's not a boxcar full of car parts or something innocuous like that. It's a car full of chemicals, and it's just sitting there. There's no protection, there's no guard, there's no nothing; it's just sitting there in our neighbourhood. Combine that with a lack of emergency plans and it could just be....

I don't want to sound like an alarmist, but if something happened, yes, it could be a recipe for disaster.

[*Translation*]

Mr. Thierry St-Cyr: I think that what you have said, and what each of the groups have said in the briefs they presented to us, illustrates to what degree CN — I know them well because it is located in my riding — is, in several respects, a very bad corporate citizen. We should no longer rely solely on the good faith of a business; we must regulate and act.

We have seen two trends. Some have asked us to create regulations through legislation, others have suggested that the Canadian Transportation Agency be given the power to regulate. There are advantages and disadvantages to each approach.

Obviously, if the rules are clearly set out in the legislation, we know where we stand, but if the legislation is flawed, we will have to wait for a government to address this issue once again. We can give the CTA the mandate to do the job, but the results are not guaranteed. I would like to hear each of you on that point.

Mr. Dalpé, what do you think?

• (1615)

Mr. Robert Dalpé: Yes. Thank you.

What is preventing any action is that for the moment, we have nothing. In my opinion, the most important thing to do would be to return that authority to the Canadian Transportation Agency which has not had this authority for several years now.

Mr. Thierry St-Cyr: To the Canadian Transportation Agency?

Mr. Robert Dalpé: Yes.

Mr. Thierry St-Cyr: Mr. Jobin, which approach do you prefer?

Mr. Christian Jobin: I would prefer that the standards be set out directly in the legislation.

Mr. Thierry St-Cyr: That it be set out in the act.

Mr. Christian Jobin: Moreover, I would like to see a national policy supporting the legislation in order to reduce rail noise across Canada.

Mr. Thierry St-Cyr: Mr. Gantous.

[*English*]

Mr. Paul Gantous: ProPointe's preference would be to follow the World Health Organization's guidelines—I referenced these in our brief—purely because the WHO guidelines will probably evolve with time. They're going to keep their eye on this type of thing.

Unless Parliament wants to set up another committee to do similar work and effectively double the amount of work being done for the same end result, we think the reference should be to the World Health Organization.

[*Translation*]

Mr. Thierry St-Cyr: Mr. Allen, what is your opinion on the subject?

[*English*]

Mr. Brian Allen: I would suggest a combination: set concrete standards with definitive guidelines and give the Canadian Transportation Agency the ability to regulate the rail companies at the same time, in case an item falls outside of the standards that may be put into the act.

[*Translation*]

Mr. Thierry St-Cyr: All right.

Ms. Fisher?

[*English*]

Ms. Joanne Fisher: I'm in agreement that the Canadian Transportation Agency would be in an ideal situation to step in here.

One thing I've heard from the people who've spoken today is an acknowledgement of the importance of the rail industry. It's a matter of finding a balance point between rail interests and what is reasonable for communities to exist by.

Another comment I've heard repeated today by various members is that cohabitation was much more prevalent prior to recent years. I think that may be a benchmark we have to refer back to. There always will be rail noise, but there have to be some reasonable standards and limits set for it.

I would like to add one point in particular that pertains to the problem we've had here in Richmond. As rail operations change and evolve, they need to be balanced against the infrastructure that exists in yards. That is, in cases like this, where trains become longer, the position of the main switch for the yard would need to be analyzed. In our case here, one thing that would greatly help would be if the main switch were simply situated a little further back in the yard.

That would be an added point I would like to make on this issue.

The Chair: Mr. Julian is next.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you very much, Mr. Chair, and thank you to each of the witnesses. You're coming forward on a very important issue, so we're very happy to have you here, particularly Ms. Fisher and Mr. Allen from British Columbia. We appreciate your participation in the committee hearing today.

I'd like to start with Mr. Allen. You provided very detailed information to the committee on what has happened in the New Westminster area, and we appreciate that.

I would like you to speak for a few moments on the impact on the lives of people in the Westminster Quay area of New Westminster. What does the existing situation create in terms of living conditions in the quay? Second, I'd like you to come back to the issue of mediation, having actively talked to the railway companies. We actually have four, as you detailed in your brief. CP, CN, Burlington Northern, and the Southern Railway of British Columbia run through that area. How effective or ineffective would voluntary compliance remediation be if we don't amend Bill C-11 as you've recommended?

Could you talk to those two points—the impact, and how mediation or voluntary compliance would not be adequate?

Mr. Brian Allen: In terms of voluntary compliance, I think all the rail companies have failed miserably. As recently as two months ago I sent a letter to the president of CN, Hunter Harrison, and they haven't even bothered to acknowledge receipt of the letter or to reply to it. Two or three years ago letters were sent to public relations officials in all the organizations. Some of them didn't reply; some of them said we'll work on it. Really, they've been operating on their own accord for many years; they haven't been doing anything, nor do they see this as an issue or a problem on their side.

In terms of how it impacts the residents here, the rail yard can remain empty all day long, and then they just operate at night. There's no need for that. With a little bit of planning and the use of logistics, they can organize and coordinate to do this work during the day. If it's so urgent that they need to do it outside the normal operating hours that I recommended, there are lots of other rail yards. For example, underneath the Port Mann Bridge is a humongous rail yard. They could operate day and night, seven days a week, 24 hours a day if they wanted, and it wouldn't impact anyone, because there's no one living in the area.

It impacts the residents negatively because the shunting is so forceful and violent. It even sets off car alarms in the building and rattles household items on the sixteenth floor of the building. It is not a pleasant situation, and many efforts have been made to seek a reasonable solution.

We've made recommendations and suggestions to the rail yards over many years, and they've never implemented any of them, with the exception of CN. CN does not idle its engines beside the apartment buildings anymore, and that was through our efforts. That's the only organization that ever responded in any way whatsoever at all.

● (1620)

Mr. Peter Julian: Are you suggesting that if we made the legislation obligatory, with clear penalties—because the railways do have alternatives, and you mentioned the Port Mann shunting yards as a very clear alternative—the railways, through their operational requirements, would simply make better choices about how they interact in residential areas?

Mr. Brian Allen: That is very true. Today I sent you by e-mail an article from the Environmental Protection Agency in the U.S. They did a study on the Chicago rail yard. They were able to reduce their idling times by 80% simply through the use of new technology, and the payback period on it was two and a half years for the cost.

There certainly are technologies out there that can be utilized by the rail lines, yet they're archaic organizations that don't see a need to change, so part of it must be legislated; then ongoing supervision by the Canadian transportation association would allow them to deal with specific situations that arise from time to time outside the legislation.

Mr. Peter Julian: Okay, thank you for that, Mr. Allen.

I'd like to ask you and each of the witnesses about some issues you've raised about restrictions around activities that would allow the railways to make better choices. You've talked about the possibility of restricting certain activities essentially to business hours from Monday to Friday.

Mr. Brian Allen: Sure. That's if they're in proximity to residential areas. Yes.

Mr. Peter Julian: Some of the other witnesses have mentioned the issue of setting standards based on decibel levels. In other words, the railways might be able to perform the activities if they used better technology to reduce the health impact or the decibel level of those activities.

Mr. Brian Allen: Yes, my preference would be for them not to operate in the area at all. How do you monitor and regulate that? That's just adding another layer of supervision and monitoring. Somebody has to do the job, collect the data, provide the reports. To me, that seems very inefficient. Why not just say they can't operate in this area in the evening, and if they want to shunt, they go to another location?

Every municipality has noise bylaws. For example, in New Westminster, it's ninety decibels during the day and sixty decibels at night. Those are hard enough to enforce for the municipality. It wouldn't be any easier to deal with the railways on those.

Mr. Peter Julian: Thank you.

I'd like to ask each of the other witnesses to comment on the issue of restricting activities to reasonable hours, as opposed to restricting decibels, and what your preference might be, starting with Ms. Fisher.

Ms. Joanne Fisher: From talking to my neighbours and from the number of petitions we've done, I think the preference out here in East Richmond would be to restrict nighttime activities, this being a residential area. Part of that comment is based on the fact that it has been the observation of people here that a lot of the freight that gets shunted in the middle of the night has actually been sitting there for hours beforehand.

We've gotten a circuitous argument when we've put this forward in the past, and it has gone something like this. When we've asked CN about it, they've told us it's based on client demand. Then when we've approached CN about how noisy it is, they've told us the reason it's so noisy is that the work is being performed by spares. When we've pointed out that the work was sitting there all night, they've said they have to do it then because that's when they have power available. So the situation just goes around and around.

I would like to just say that some of my neighbours along River Road have been so impacted by this that they've actually had to reorganize their households. A common complaint that I've heard from residents here who have talked to me is that they can't open their windows at night, primarily because of the noise.

The other thing that has been very distressing is the amount of time some of my neighbours have waited to try to make a legal road crossing. We have had two incidents in particular that are very disturbing. One happened a number of years ago but was never addressed, and that was when fire trucks were obstructed from crossing this road. The train was actually stalled and blocking the road, and a family on our street just about lost their home over it. The crew wound up manually pushing empty rack cars off the road to clear it. And this was something that I found very upsetting from talking to my neighbours: calls that were made to CN about this incident were never returned, were never addressed. So that was something that was very disturbing for the people here.

I would also like to make a comment about what happened when I spoke to one of my neighbours last week. They live a fair distance from the road and more to the north end of No. 8 Road. They've been residents there for over thirty years, and they have found the impact of the shunting to be...well, Mrs. Lagaditis called it frightening. She told me it scares her sometimes, and then she told me she has to go around her house and straighten up pictures on the wall after some of the episodes of shunting out here. This is a family that has lived here since the 1970s, so I think there's a significant problem here.

● (1625)

The Chair: If I may, I'll allow you to answer, but I would ask you to just keep it brief. Time has elapsed, so we'll hear a brief comment from each one perhaps.

Mr. Paul Gantous: Yes, I think it depends on how the act is going to go through. If the act is going to go through with some monitoring of the decibel levels, then sure, let's just follow the World Health Organization and make sure at night that the decibel levels are below an acceptable level. If there's going to be no monitoring, then stop the activities at night. I can reference people in our group whose children have woken up screaming in the middle of the night that they thought a war had broken out because of the noise. So if there's that level of noise, stop. If it's monitored and at an acceptable level, we think we can go ahead with it.

[Translation]

Mr. Christian Jobin: I agree entirely with Paul: it will depend on the legislation that will be passed and its noise-level provisions. By setting out standards similar to the WHO's on allowable decibel levels by day and by night in the legislation, the rail company will have 30 days within which to comply, which would be given by the Canadian Transportation Agency.

By accepting the concept of unreasonable noise — which is a rather weak concept — or the least unreasonable possible, all operations would have to cease at night, particularly between the months of May and September, so that people can open their windows. If we set out the World Health Organization's standards in the legislation, it would be up to the railway company to find solutions.

[English]

The Chair: Mr. Dalpé, go ahead, please.

[Translation]

Mr. Robert Dalpé: Thank you.

It seems to me that the concept of unreasonable noise is not clearly defined in the bill. It should take into account the neighbours, the surrounding area and standards in terms of health. When the shunting yard is situated in a residential area where trains go through, rail transportation should be subject to the same laws that apply to air transport or to trucking.

What has always bothered me, is that rail transportation often benefits from exemptions. On the one hand, you have municipal, provincial and federal legislation that applies, whereas on the other, there is nothing.

[English]

The Chair: Mr. Blaney, go ahead, please.

[Translation]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you, Mr. Chairman.

First of all, I would like to welcome all of the stakeholders from across the country who came to Ottawa to discuss with us the noise that affects all of our constituents, regardless of their party. I would particularly like to welcome Christian Jobin, who has served as the mayor of my municipality, Saint-Étienne-de-Lauzon, for 12 years. He has also been a member of Parliament and wears that badge. Welcome, Mr. Jobin.

It is true that the Conservatives are closely linked to the prosperity of our country. There is much work that remains to be done in the rail sector. I will remind you, Mr. Hubbard, that the privatization

happened under the Liberal government. But beyond partisan considerations, today we are discussing a bill that affects all citizens.

Mr. Jobin, my question is for you. First of all, you seem to be saying that the concept of unreasonable noise is vague and you would rather see us studying concepts of quality of life and public health. Then, you say that discussing operational requirements and recognizing that the company has an obligation to be profitable risks weakening the legislation.

We want to ensure that the bill has teeth, but on the other hand, we do not want to see the industry go out of business. How do you see this? The other witnesses may also intervene.

• (1630)

Mr. Christian Jobin: We feel that the word “unreasonable” is too weak. Bill C-26 was stronger because it said “the least noise possible”, which is much stronger than “unreasonable”, as far as semantics is concerned.

Why do we wish, as Mr. Gantous was saying, to incorporate health concepts that comply with the rules of the World Health Organization? We feel that the bill should include specific enough criteria so that the Canadian Transportation Agency would unequivocally have the power to implement the legislation, so that the railways could not invoke the excuse of operational requirements and could not very easily disobey the rules.

Unreasonable noise is a quantitative concept.. What we would like to see, is that the control factors be qualitative, or conversely, that we at least be able to record the noise, quantify it and say it exceeds the allowable daytime or night time decibel level. The railway company that goes beyond the limit would be obliged to find solutions and to report to the Canadian Transportation Agency within 30 days of the violation. That would be legislation with teeth.

The railway company can find solutions. We must not be afraid. In Europe, this is how it currently works. If there is anywhere that the railway sector is developed, it is in Europe. While we were dismantling our railways, Europe continued to develop its passenger and road transportation infrastructure.

Europe has much more stringent standards in this area than we do. European tracks are very smooth, whereas ours are still unequal, which produces shaking and noise. We suggest the creation of a railway noise reduction policy including mandatory annual outcomes drafted together with stakeholders from the railway companies, in order to find solutions and to ensure the harmonious coexistence of all stakeholders.

Mr. Steven Blaney: We met with representatives of the Canadian Transportation Agency, and they are prepared, through regulations, to implement guidelines that could potentially include limits on decibels.

I would like Mr. Gantous or Mr. Dalpé to talk about the wording of legislation that would have teeth, while taking into account the corporate responsibilities of the railway companies.

Mr. Robert Dalpé: I will deal with the issue of profitability.

In our case, it was Canadian Pacific. When I moved to place Thomas-Valin, the first complaint we filed, as citizens, concerned poorly tuned locomotives, by which I mean they were burning their diesel fuel badly, and stationary locomotives that were left idling. We were very surprised to realize that fuel economy clearly did not particularly concern these people. As neighbours, we had trouble understanding how a business of this kind can carry out its day-to-day operations while wasting so much.

Moreover, I do not feel strongly that it should be the Canadian Transportation Agency rather than an other organization that should be in charge of the regulations. However, what was interesting at the time of the Canadian Transportation Agency, was that competent technical staff could, from what we had suggested, issue comments and criticism of a technical nature. They were in a position to discuss the feasibility of the solutions proposed by the engineers and the technicians.

For something to come of this, it is important that, within the federal government, there be competent technical experts, independent of the two or three major rail companies, who are able to discuss these kinds of issues as well as to comment and criticize the impressions of the three companies.

[English]

Mr. Paul Gantous: Essentially, I agree with Monsieur Jobin's point that regardless of whether you're putting your own noise limits into the law or whether you're referencing the World Health Organization, the law has to have deadlines for them when there is a dispute. When someone makes a complaint, there has to be someone independent, as was described by Monsieur Dalpé, to go out to judge whether or not there has been an infraction; if there has, there has to be a time limit on it. If there's no time limit on it, you could go on forever.

• (1635)

[Translation]

Mr. Steven Blaney: There is a 60-day deadline provided for the enforcement of the order.

Mr. Christian Jobin: I remind you that Bill C-26 provided for 30 days.

Mr. Steven Blaney: I will come back to the issue briefly.

[English]

I don't know if Mr. Allen and Ms. Fisher can hear me, but I would like to hear from them about the necessity of the company operating with regard to the law, and the necessity also of accommodating the neighbourhood in terms of noise as well as health-related issues.

Ms. Joanne Fisher: I'm sorry, were you addressing me?

[Translation]

Mr. Steven Blaney: Yes. I would like to hear what you have to say about taking into account the railway companies' needs, in terms of financial profitability, while ensuring that the legislation meets its objective, in this case that the shunting yards next to the railways tracks, in particular, be happy neighbours.

[English]

Ms. Joanne Fisher: I believe in the case of Richmond, B.C., there are numerous solutions here that will keep the freight running

smoothly while addressing resident concerns. In the specific example of Richmond, B.C., over the past few years CN has built a new shunting yard directly south of this one. It is in a solely industrial area. Around March of this year, it was observed that freight from that yard was being brought into this yard in the middle of the night. We were hoping that maybe it would be the inverse of that.

Some of the solutions for Richmond, B.C., would be simply examining the existing infrastructure of the yard here and how it's operated. Some changes to the actual layout of the yard would result in substantial noise reductions, we believe. Looking at the actual scheduling of the yard itself, we believe there's some leeway and latitude for rail companies to perform some of the work that's being done in the middle of the night done at a more reasonable time.

A lot of what needs to happen here...I heard the term "better choices" being used earlier in this discussion, and I would come back to that as being a core point I'd like to make. There are choices available, and it's a matter of being able to discuss them. I'd like to point out that we've not been able to discuss those with CN because we've been turned down for mediation.

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you.

I'd like to welcome the guests and also those from British Columbia.

Certainly, listening to some of the speakers here and to Mr. Allen and Ms. Fisher parallels my experience when I was the mayor of North Vancouver. We had problems when BC Rail was sold to CN. BC Rail, being a provincial railway, by obligation of the province, had to comply with municipal standards in terms of noise. Our noise bylaws and the issue of non-whistling at crossings applied. Once CN took it over, it no longer applied.

What I've heard you say sounds like a repeat of the things I've heard. I've had complaints from residents who were awakened all night, and I see that some of the submissions here have detailed times going through the entire evening—how many times the whistle blew. As mayor, I had people phoning me at night and playing tape recordings of whistles to let me know they were hearing whistles. Interestingly enough, I lived several miles away and I could hear the shunting.

It seems to boil down, as Ms. Fisher said, to an issue of scheduling and also of logistical changes. The yard was, in this case, close to a residential area. As Mr. Hubbard said earlier, the railways were here before many of these residential areas, but the very nature of the railways attracted workers and business. The very nature that made them thrive is in fact what is the growth of cities, as we've seen, and they have to recognize that. And they have to look at some of their logistical activities, such as shunting and the assembly of trains, in areas that are different from where they were in the past, because the areas they're in have changed. I agree with that.

Mr. Gantous, you referred to the European standards, and I think you made reference to 45 decibels. Was that the WHO standard that you were referring to? If it was, I'd be interested, because municipalities have bylaws that establish decibel ratings. The big problem with the kind of noise you get from shunting is that it's intermittent, whereas if somebody is running a stereo system or go-carts or something, you can stand with a meter and read them; if it's an industrial noise, it's consistent. It's the intermittent noise.... Some of the bylaws refer to it as nuisance noise, which can be intermittent and therefore difficult to measure, but if they have technologies and you can provide any information on that, I would appreciate receiving that.

Mr. Jobin, I heard you say you'd like to see qualitative rather than quantitative...but if I listened to your wording, I think you meant just the opposite, because what you want is some kind of measurable standard rather than one that is more vague, that talks to the qualitative as opposed to the quantitative standard.

Certainly the issues there are ones that we have to find out...and CN cannot simply hide behind the standards or the defence it has had in the past. It has to recognize that they have to work in cooperation with the areas they serve, and that it's a mutual benefit if they do so.

I'm not going to repeat much of what has been said by my colleagues, and I think they've all addressed the issues.

Some of the comments here relate to rail safety. There's an issue in Mr. Allen's presentation from New Westminster talking about the rail yard having had several derailments in the past. Most recently it was the derailment that destroyed part of the Westburne Electric building, and there are other references. This is also a concern.

I know, Mr. Chair, that in a meeting I was not at there was a decision made that rail safety would be considered by this committee once Bill C-11 has been dealt with, that that issue would come forward. I'm concerned particularly because of the recent CN derailments that occurred in the Prairies, Alberta, and also B.C. As you know, we had a toxic spill in the Cheakamus River that wiped out fish populations, that devastated those fish populations. Last June we had two deaths when rail workers were caught on a runaway locomotive.

It would be my intention, in compliance with the suggestion of what would be appropriate for this committee, that once we have gone through these issues and are ready to move on to rail safety...I would like to see us look seriously at the derailment issues and rail safety, particularly with CN. Whether it needs a formal commission or an in-depth study by this committee, I would like to hear a good discussion. It is certainly a concern that's been brought to me by my constituents.

● (1640)

The Chair: Thank you very much for appearing.

Monsieur Ménard, go ahead, please.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): I would like to ask a question of both Mr. Dalpé and Mr. Jobin respectively.

Hochelaga-Maisonneuve is a neighbourhood situated between downtown and the end of the island of Montreal. It experienced

industrialization rather early on. It has even experienced several generations of industrialization. What concerns me is the effectiveness of the bill we are studying. I must admit that I am not at all reassured. It seems to me to be very lax and rather spineless. I am not convinced that it will change much.

Mr. Dalpé, you say you hope that regulations will be passed, pursuant to this bill or another, that will control noise emissions from the air, smells and smoke. You hope that these regulations will be implemented by Transport Canada and not by the Canadian Transportation Agency. Is that correct?

Mr. Robert Dalpé: I do not have a precise proposal to put forward, but the idea of turning to the Canadian Transportation Agency seems an interesting one to me, insofar as this organization having had certain technical skills in the past. In order to be able to implement the regulations, the responsible organization must have this kind of skills.

Mr. Réal Ménard: In the end, the railway companies have behaved like delinquents, like railway hoodlums. They had the technical means to invalidate rights. It was thought that the Canadian Transportation Agency had some authority, but the people of Oakville discovered that such was not the case. We all agree that the Canadian Transportation Agency, this quasi judicial body, must have the power to issue orders.

Mr. Jobin, I am very pleased to see you again. I have fond memories of you. You were a moderating influence in a caucus that was not always so. In your reading of the bill, would you say that the Canadian Transportation Agency has real power? There is a desire to see them able to initiate mediation and conciliation. I understand that; there is nothing unusual about it. But once the Canadian Transportation Agency has acted and has adopted its guidelines, how effective do you think it can be in obliging the major rail companies to adopt solutions and improve the quality of life of our fellow citizens? All of this does not seem very compelling to me, but I am asking you to prove me wrong.

● (1645)

Mr. Christian Jobin: I agree with you that the bill, as presently worded, is spineless. It is very weak. The terms used are not strong enough to indicate to the companies that they are at the heart of the problem and that they must find solutions.

That is why I suggest that we quantify the standards in terms of decibels and that they be included in the legislation, so that they will truly be respected, during the day and at night. These standards would be sent to the CTA, which would hear from the railway companies and propose solutions. The companies would have 30 days within which to comply. In our opinion, this is the way in which we could give much more force to the legislation.

Mr. Réal Ménard: Mr. Dalpé, suppose that on behalf of all of the people of Ville-Marie, of Thomas-Valin, in short of those who live in the neighbourhood of a shunting yard, an attempt is made at reconciliation, and that this does not satisfy the people and that they then file a complaint with the Canadian Transportation Agency. If the bill is passed in its current form, even if the agency drafted guidelines, this complaint would not result in much. It is not compelling: there is no power to issue orders.

Mr. Christian Jobin: That is correct, and the rail companies could invoke their obligation to protect their financial health in order to stay in business and could pretend that it would cost them too much to reduce the noise. They could also maintain that they are obliged, for very special operational reasons, to generate much more noise. The railway companies could in effect hide behind that sort of language, so that no solutions are brought about and they continue to make as much noise as they want.

It has to be said that before 1999, no one — and certainly not the people of Oakville — knew that there was such a regulatory vacuum and that the railway companies, in fact, were not concerned with the noise problem. Today, when faced with this regulatory vacuum, we say to ourselves that if we are going to amend the legislation, we might as well give the bill some teeth, so that the legislator can intervene. The laws are more iron-clad in Europe. And yet, that is where the rail sector is the most developed. These constraints are therefore not a handicap.

Mr. Réal Ménard: I will leave it to my colleagues Mr. Carrier and Mr. Laframboise to study the issue, but I will follow this file with a great deal of interest.

Has anyone thought of a wording that could inspire our very pleasant parliamentary secretary? I am referring here to amendments that could strengthen the bill and that could be submitted to the committee.

Mr. Christian Jobin: Unfortunately, we don't have a lawyer with us.

Mr. Réal Ménard: I'm not sure that it is so unfortunate.

Mr. Christian Jobin: Having worked with several lawyers, I can say that they are very pleasant people. Mr. Bélanger, who is currently working on the Outremont station class action, did not suggest any text. However, he recommended that we emphasize health and people's quality of life as well as the need to adopt standards with that in mind.

I know that the City of Québec and the City of Lévis will be tabling briefs here next Thursday. They will be accompanied by lawyers from litigation departments. They will certainly be able to recommend a wording. I have read the briefs from the cities of Lévis and Québec. They are very much in line with what I have said here today. The most important thing will be to implement remedial measures. The national policy on railway noise reduction would be an ongoing policy, but remedial measures could be proposed annually.

Mr. Réal Ménard: Do I have time to ask a final question?

[*English*]

The Chair: I'm sorry.

Mr. Fast.

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

I want to thank each one of the participants for attending and providing us with the input today.

I want to remind everyone at this table that our government has consulted extensively on this issue. In fact Mr. Jean, the parliamentary secretary, was in my area this past summer going to many of these municipalities checking out transportation difficulties and the rail problems we're facing. He's also been in Alberta and Montreal, I believe.

My experience is in the lower mainland. One thing we shouldn't forget is the fact that Mr. Julian's riding, which includes New Westminster, and also Ms. Fisher's community are both part of the Pacific Gateway strategy. Those of you who followed the Pacific Gateway announcement this past week know that traffic through this area is only going to get busier. Hopefully the transportation of goods and services through that corridor is going to make the whole area and Canada more prosperous. But it's also going to impose much tougher conditions on those trying to transport goods through the Pacific Gateway.

First, I would like to make it very clear that while our railways contribute significantly to the Canadian economy, they also have to earn a social licence, as does industry as a whole. That doesn't only affect transportation; it affects many other areas, such as the environment.

One of the concerns I had in listening to the participants, specifically to Mr. Allen and Ms. Fisher, was their reference to the fact that the consultations, which took place with the various railways, ended up in failure. Again that's where the whole issue of social licence comes up.

Could the two of you expand a bit more on the process that you attempted to go through in trying to address these noise problems directly with the railways? What was it that led to the failure of those consultations?

● (1650)

Mr. Brian Allen: I tried contacting—as did my father and many other residents—the public relations department, the manager of rail yard operations, and even the president of CN, for example. They don't even want to sit down and discuss it. I can't arrange a time to talk to them.

If there was legislation in place where we had to try to attempt mediation, sure, I could do that. I've waited ten years; I can wait another year. But the problem is that they don't see it as their problem. They refuse to try to implement any kind of operational standard that would take into account the residences surrounding their rail yards. They refuse to take any action to change their logistics from working at night to working during the day, when it would be less of a bother for people, because they would be at work or they would accept the fact that they live in a big city and noise goes on during the day. They just refuse to discuss it.

This is why we're at the end of our rope. This is why I put all the work into putting together these reports and making suggested modifications to the amendments. If they were willing to sit down and discuss things like reasonable corporate citizens, we wouldn't be here.

The use of the land surrounding the rail yards has changed over time. It's no different from constructing an elementary school and changing the speed limit from 50 kilometres down to 25, for the protection of the kids. The use of the land has changed; it's been urbanized.

The railways should respond in kind, but they don't even want to discuss it.

Mr. Ed Fast: Ms. Fisher.

Ms. Joanne Fisher: My experience is pretty much the same as Mr. Allen's. This community applied for the CTA to intervene in 2000. The Canadian Transportation Agency agreed that there is a significant problem here. Unfortunately, our bid to resolve this came at the tail end of their jurisdiction. After their jurisdiction was removed, we simply experienced an escalation of the initial problem. When we contacted the Canadian Transportation Agency at that point, it was suggested that we apply for mediation. It was made very clear that CN's involvement was at their own discretion. CN rejected our application for mediation. At that point, without having very many other resources to turn to, we turned to the mayor of Richmond, Mayor Malcolm Brodie, who came here; along with Suzanne Bycraft, who is the head of emergency services here in Richmond; as well as the local health authority, Mr. Art Hamade, who is the assistant superintendent for.... He retired last year, but he had been very active in this regard since 1992.

They all approached CN. Mayor Malcolm Brodie wrote a very detailed letter to CN, asking for help in some form of resolution—I believe his letter was ignored for over half a year—and got back a response saying that basically nothing had changed. And that's where the matter stands at this particular point in time. The mayor has done everything he can do to help us. The health department has done everything it can do to help us. Emergency services has been involved. There is no other place to turn to at this particular point in time.

Mr. Brian Allen: I'd like to add one other item, which is that if the rail companies were so willing to work at mediation and at resolving noise complaints, they never would have challenged the authority of the Canadian Transportation Agency in the first place. The whole reason we're here today is that the CTA no longer has any authority. It's been challenged in the courts by the rail companies, and the Supreme Court has said that's right and that it's not in their charter so they can't regulate it.

• (1655)

The Chair: Mr. McGuinty, you have five minutes.

Mr. David McGuinty (Ottawa South, Lib.): Thank you very much, Mr. Chairman.

Mr. Chairman, I'm going to say, I guess from the beginning, that this is a new issue to me. I've not been exposed to the railway noise issue before. But I have to tell you the gap that is between this bill and the concerns and interests of the people who've testified here today is so large that you could drive a train through it.

I don't know what the government has done in terms of consulting with locally affected communities, because I see here changes that are projected in the Canada Transportation Act, for example, which I don't have any confidence are going to address these issues at all. I see a potential crash course collision with litigation. I don't know how the Canada Transportation Act is going to deal with the question of making public guidelines, in consultation with interested parties, to explain the elements it will take into consideration when deciding noise complaints. Common-law history is paved with tests of reasonableness, which lead to more and more litigation.

I read excellently prepared briefs, by the way. Congratulations to the folks who have given us written briefs. These are the best briefs I've received since sitting on this committee, because they actually speak to the specificity of the bill and tell us exactly what you'd like to see in terms of changes. So congratulations, Monsieur Jobin, and to the gentleman who is on the phone line, Mr. Allen, thank you.

I'm going to toss this out to all the witnesses and say that you've raised some incredibly important points here about municipal governments being engaged; about sanctions and how they might be implemented; about whether or not this is actually going to lead to less litigation or to more litigation; and about the question of whether or not we ought to have decibel tests or non-decibel tests applied here in terms of the noise levels.

Basically, could I conclude from this, as a mere mortal MP, that we have to go back to the drawing board and re-examine this? I see a gaping hole so large between the elements of this bill and the concerns of you as citizens on the ground, from across the country, that I'm now becoming deeply concerned.

Mr. Brian Allen: Could we ask you guys to have a time deadline to respond and put together a new bill?

Mr. David McGuinty: I'm going to ask again how many of you were actually consulted by Transport Canada in devising this draft bill, because I don't see any of the interests, or very few of your interests, reflected in the text, unless I don't read English or French.

[*Translation*]

Mr. Christian Jobin: Since I have worked on bills C-26 and C-44, since CN went all the way to the Supreme Court to challenge the ruling of the Canadian Transportation Agency in 1999, and since I was involved in mediation which, after 18 months, bore no fruit, I can tell you that there still is not a level-playing field between citizens and the railway companies. The companies just don't want to make the appropriate changes. That is why we want this bill to be amended. I'm not saying it is specifically to protect citizens against the companies, but rather to protect them against the abuse of power which those companies exercise. I think that today they are not acting as good citizens and that is unfortunate.

Everyone knows that CN helped develop Canada. When the railway was built, CN contributed to the growth of Canada's major cities. We are in favour of the development of the railway sector, but we want there to be a harmonious relationship between citizens and this sector, as is the case in some European countries. That is why we are asking for wording referring to the health of people to be included in the bill, along with quantitative standards referring to the allowable noise level during the day and at night.

We agree with Mr. Ménard that the word "unreasonable" is too weak. This would allow the railway companies to claim, in the name of financial or operational criteria, that they cannot correct the situation. These standards exist in Europe. As for a national rail-noise-reduction policy, we would like it to be permanent and that it allow for remedial measures over time.

CN, as well as Canada, have grown over time, but the two events did not happen in a harmonious manner. The parties did not agree, and that's why we are here today. We have to deal with the fact that railways generate noise, but ignore municipal and provincial regulations.

If a citizen made the type of noise during one night which CN generates throughout the year, he or she would be immediately thrown in jail. What we want is to level the playing field. The changes we are asking for may seem radical, but for a long time, since 1998, we are in the same boat as the citizens. And that is why we are making this request.

• (1700)

Mr. David McGuinty: Allow me to ask my question in a different way. Based on what I have heard today and what I see in the bill, I would ask the following question, which is simple: what specific changes is the government putting forward? Is it in fact offering the status quo?

Mr. Christian Jobin: Based on what we can tell, if bill C-11 is adopted, the Canadian Transportation Agency will recoup the power to issue orders which it lost in 1999 because of CN's litigation before the Federal Court. That is what would change.

As well, we find the word "unreasonable", which is a qualitative term that will allow, unless I'm mistaken, arbitrators to determine whether or not a noise level is unreasonable or not.

Mr. David McGuinty: The issue is really how the CTA will exercise the power it will receive.

Mr. Christian Jobin: A power which was lost in 1999 because of CN's challenge before the Ontario Federal Court. It is significant that the CT would regain this power, but, if we are to amend the act, we would like the bill to go much farther in protecting citizens. As I was explaining earlier, we must level the playing field.

Mr. David McGuinty: Thank you very much, Mr. Jobin.

[*English*]

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

Thank you very much to all the witnesses for coming today or for attending by way of teleconference.

First of all, I want to clarify that my understanding is that section 95 of the act does allow the CTA, with authority, to issue orders

against the railways, and these are mandatory orders of law. I do think there's some incorrect information out there as far as the authority of the CTA, and I'd like you to comment on that.

I'm not surprised that Mr. McGuinty said that no consultations have taken place, because most of the consultations, obviously, even for this bill, were from the previous Liberal government under Bill C-44. Fortunately, we do have a minister who sent some of us out on the ground to see what was going on with rail and transportation issues all over the country.

I'm also curious about whether any of the five witnesses today have consulted with FCM, the Federation of Canadian Municipalities, in relation to their railway association consultation on voluntary measures. I would like to hear from the witnesses on that.

The Chair: Yes, Mr. Jobin.

[*Translation*]

Mr. Christian Jobin: I know full well that the Union des municipalités du Québec tabled a brief on Bill C-26 and that it said the same thing we are saying today. The brief asks that the CTA regain the power to issue orders. Bill C-26 referred to making "the less amount of noise possible". For us, this wording is much stronger than the word "unreasonable". We would like to re-emphasize the fact that quantitative rules, in terms of decibels, should be included to protect people's quality of life.

The Canadian Federation of Municipalities has also spoken on the issue. It would like the Canadian government to amend the Canada Transportation Act so that the CTA regains the power to issue orders. Indeed, negotiations held in Canada within the framework of a mediation process failed because CN and CP withdrew.

[*English*]

Mr. Brian Jean: What led to this particular bill is the constitutionality that wasn't available before as a result of court challenges. This is why we have the act now. And we do have the authority, as CTA does, to do so.

I just want to make sure that we're not missing anything here. This really is my last question, Mr. Chair.

Mr. Dalpé actually referred to environmental standards. I'm curious if there are any other effects that anyone sees from the shunting and the rail, besides noise, vibration, and smoke. Are there any other environmental concerns that any of the witnesses have?

[*Translation*]

Mr. Robert Dalpé: The two most obvious environmental impacts are noise and smoke. It would be important for the smoke to be brought under control and that we understand how it affects people. In our case, the house is located about 50 meters away. We would like there to be an environmental assessment on the effect of smoke. We know that along highways, houses and cars become damaged more easily. The same thing holds true when you live near a shunting yard.

Mr. Christian Jobin: The Chaudière-Appalaches Regional Health and Social Services Board conducted a study on the Charny yard and noise zones at night. The noise is so intense that people cannot sleep. They wake up in the middle of the night. People have reported high stress levels. Amongst other things, there are reports of children who are not doing as well in school and senior whose stress levels have gone up, and who even have developed more serious illnesses due to stress. Some of my friends who live near the yard sleep in their basements at night and have to use ear plugs.

Bill C-11 will give the transportation agency the power to issue orders, but is the word “unreasonable” strong enough to address all the situations I have just described? CN, CP and all the other railway companies will repeat what they did in 1999 when they took their case before the Federal Court in Ontario to challenge the very severe ruling the CTA had made against CN. That is what I fear.

• (1705)

[English]

Mr. Paul Gantous: Similar to what Monsieur Jobin said, what concerns us about the wording of the law is proposed paragraph 95.1 (b), where it refers to having to take into account the operational requirements of the railway company. That just leaves it wide open.

Mr. Brian Jean: Mr. Allen or Ms. Fisher.

Ms. Joanne Fisher: Yes, I have a specific comment I'd like to make about the observations here at Lulu Island.

In March of this year, we experienced with CN Rail an increase in the total amount of locomotives parked in this yard. CN has been approached at various intervals about extending their shop track. They've never done that—to the best of my knowledge, at least. Currently, there are more locomotives in this yard than shop track. The reason why that's at issue is that there's not sufficient spill trays to accommodate this many locomotives and there's a small drainage ditch directly next to the shop track that directly feeds into the north arm of the Fraser River. I view this as a very serious environmental issue that has never been adequately addressed.

With respect to the secondary issue that ties into the fumes, I'd simply like to use the example of my neighbour, Lynda Parsons, who's directly adjacent to my house. She asked me to come over recently and take a look at something she noticed. I stood in front of her house, and the entire roof of her house is permeated with black stains that she believes are diesel exhaust residue. Her home is actually stained at this point because of the amount of time that locomotives spend idling in close proximity to her home.

So there are significant environmental issues tied with this whole bill that I think need to be addressed as well.

Mr. Brian Jean: Mr. Allen, do you have anything to add to that?

Mr. Brian Allen: I agree with the comments everyone else has made. There are noise, vibration, and pollution concerns. But I would not want to see this bill delayed to deal with environmental issues, because those could be covered under Environment Canada. But really, that's the choice of the committee on how they proceed with that.

Mr. Brian Jean: Thanks to all the witnesses.

And thanks to Mr. Blaney and the chair for suggesting, and insisting, that the citizens of Quebec and other areas of Canada come forward with this evidence.

Thank you.

The Chair: Thank you.

Because we have a few minutes, I'm going to allow each party to ask one brief question. I'm going to give you a minute, and I will cut you off if you go too far.

Mr. Carrier...Mr. Scott, I'm sorry.

Hon. Andy Scott (Fredericton, Lib.): As long as you picked me, go ahead. Don't be frightened by his.... Go ahead, Mr. Carrier.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): I agree with the fact that the Bill would not be very strong as far as the noise issue is concerned. We all want to solve this problem as quickly as possible. However, amendments would have to be made to the Bill. It is possible to do so in the short term. As you mentioned earlier, we are only referring to unreasonable noise levels. Further, we are asking the agency to solve these problems, but we are only saying that it may establish guidelines. This is all very vague. I will not be happy if the Bill remained as vague as it is.

I share Mr. Dalpé's opinion, which is that the agency should establish standards with regard to noise, since this issue falls within its jurisdiction. I think this can be done immediately and that it would help the Department of Transportation, which also employs competent officials. The Bill should include these standards, so that it is clear that this is a Bill which will solve the noise problem.

I was wondering whether, since the agency has the expertise, you feel that standards on noise levels could already be included in the Bill.

[English]

The Chair: Be very brief, please.

[Translation]

Mr. Robert Dalpé: I will once again repeat that environmental standards are applied practically everywhere, except within the area of rail transportation. We therefore simply have to apply the same standards which exist elsewhere. Our health departments have standards on all these matters.

• (1710)

Mr. Robert Carrier: Could that be included in the bill?

Mr. Robert Dalpé: Yes.

Mr. Christian Jobin: I agree, but I really don't care whether that falls under the purview of the Transportation Agency, the bill itself or the department's officials. However, I insist that we have a national noise reduction policy and that it not be included in the bill, so that we do not end up in this type of situation again in 50 years.

Mr. Robert Carrier: But we agree on the fact that the Agency should not be the one to make that call.

Mr. Christian Jobin: Indeed.

[*English*]

The Chair: We'll have Mr. Scott, please.

Hon. Andy Scott: Thank you very much, Mr. Chair, and thank you to all the witnesses here and on the other end of the communications. And bonjour, Monsieur Jobin. It's a pleasure to see you again.

My question is specifically to all the witnesses who feel they can answer. Mr. Jobin has spoken of the regulations in other jurisdictions. Could you quickly elaborate on the principal differences between those regulations and what is being proposed?

Second, could you give some indication of the nature of the response to those regulations? Sometimes regulations don't necessarily have the outcomes you expect, although they are satisfactory outcomes nevertheless. Has that been the case, in your experience?

Then finally, let me just weigh in with others who have talked about the high quality of the interventions and briefs we've received from all of you on this subject. I think it is incumbent on us as a committee, and ultimately on the government, in recognition of the quality, to actually make those amendments you propose, unless there are some good reasons not to. For my part, they are going to have to be very convincing to not do the things that have been suggested by very thoughtful people here this afternoon.

The Chair: I would ask that your comment be very brief.

[*Translation*]

Mr. Christian Jobin: A national railway noise reduction policy could include the following initiatives: an inventory of the major rail lines located close to residential areas in municipalities with more than 250,000 inhabitants; put forward an inventory of sectors in which the abutting owners are exposed to excessive noise levels, which would be put together in consultation with the rail companies, Environment Canada, as well as provincial and municipal authorities; the establishment of acceptable noise levels and thresholds based on established WHO and OECD standards; an assessment of the feasibility of establishing an emissions cap, by way of regulation, based on agreements with the railway industry; awarding priority to actions or disruptions which cause the most harm, which is at night when the noise level exceeds established limits.

All these standards could be included in a national policy, but it would be a living policy. It might even go so far as to amend Bill C-11 and give rise to adjustments over time. This is actually how things work in Europe today. There is a national policy, and every year, the legislative framework is amended. This way, companies have to change the way they do things to stay within the law.

And has the railway sector lost ground in Europe? No, on the contrary, it has grown.

[*English*]

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

Mr. Peter Julian: Thank you very much to all witnesses.

I was particularly hit by your comment, Mr. Allen, about what happens when we put schools in places where there are existing roads. Obviously, we don't sit down and try to mediate all of the

traffic. What we do is once the school is put into place, we limit the speed limit, we take away the truck route, we ensure that parking regulations are in place during school hours. In fact, there is a whole range of regulations that we put in, and it is very similar to what you've been talking about in terms of railways.

Railways may have been there prior to Westminster Quay and other residential developments, but the reality is it's now our responsibility to ensure that residents in those areas live in the best possible conditions. So I thought that particular parallel you drew, Mr. Allen, was particularly convincing. We need to make sure that the folks in Westminster Quay and other places across the country are well taken care of. So I just want to thank all the witnesses.

Getting back to the issue of mediation, I'd like just a brief comment from whichever witness would like to say something on this. But obviously, in the case where we're talking about multiple railways, despite being the preferred route to take for the government, mediation is just completely impractical—

Mr. Brian Allen: Yes, I would agree with that. That sounds very problematic, because you'd have to mediate with four parties, for example, in the New Westminster Quay, each one of them requiring the time, energy, and effort of both the individuals and the government and lawyers to deal with it. So I think it's far better to legislate a solution and provide power to the CTA for future problems that may occur.

• (1715)

The Chair: Thank you, Mr. Allen.

Mr. Blaney, one minute.

[*Translation*]

Mr. Steven Blaney: Thank you, Mr. Chairman.

Today, we heard witnesses from across the country who told us about their concerns. I think it is the role of our committee to improve the bill under study. And that is exactly what the members here today intend to do.

I will keep in mind Mr. Allen's recommendation. Don't forget that this is an urgent problem. Indeed, in everyone of our ridings, people go to bed at night, but cannot sleep because of the noise from the railroads. I agree with the idea of a national policy, but in the short term, we have the opportunity to improve the quality of life of the people who live in our ridings, our cities and municipalities. I believe that it is our duty to act.

That being said, I would like to thank the Parliamentary Secretary, Mr. Brian Jean. I am pleased to have had the opportunity to hear from the people from our ridings. I would also like to acknowledge Mr. Dorion from Charny, who has also met with us.

[*English*]

The Chair: You're absolutely on time. Thank you, Mr. Blaney.

I would like to thank our guests. We call you witnesses, but I'd like to think you're guests offering advice to government. We appreciate that. And to our long distance guests, thank you very much.

If I may, just with the committee members, we do have one little piece of business to wrap up. We've circulated the budget request for Bill C-11, and what I really need is just an acknowledgment that you've looked at it and it's acceptable to submit. Is everybody comfortable with it?

Mr. Jean.

Mr. Brian Jean: I'm just curious. You're talking about a budget of \$16,000 for the witnesses coming from Victoria. Does that include hotel accommodation, meals, etc.?

The Chair: What we're trying to do, as we've done with this today, is encourage the teleconferencing first. So we should see that reduced. We will already, because today's expenses were covered by the teleconference.

Mr. Brian Jean: It's refreshing to see a Conservative government at work, Mr. Chair.

The Chair: Absolutely.

Okay, with everyone's approval then, I will submit this to the committee.

Mr. Julian.

Mr. Peter Julian: Just to clarify, Mr. Chair, the expenses are for the witness list that we went through and approved prior to the Thanksgiving break. So all of those witnesses would be included either through teleconferencing, videoconferencing, or actually coming before our committee?

The Chair: Absolutely. And we've estimated on the high side, with the idea that if we can arrange it through teleconferencing, then we will save the committee that much more. This will be a budget that we won't exceed; we should come in well under.

Mr. Bell.

Mr. Don Bell: Do I understand that two of the five Vancouver-Victoria witnesses have already been accommodated by this teleconference?

The Chair: Yes.

Mr. Don Bell: So we've just saved \$6,400, minus whatever the teleconference was?

The Chair: Absolutely.

Mr. Don Bell: It's good to see that kind of Liberal initiative.

The Chair: And with the nod of your head, I'll make sure this goes through.

I want to just advise the committee that we have a motion that's been brought forward that we will debate on Thursday. I'll ask Mr. Julian if he'd like to speak to it briefly or...

Mr. Peter Julian: Before I do, Mr. Chair, I'd like to come back to the issue of the budget. We did have two witnesses, Ms. Fisher and Mr. Allen, who very gracefully acceded to participating by phone conference—it's not the ideal way to have witnesses from British Columbia brought in. British Columbia, traditionally, is disadvantaged by its remoteness from Ottawa. I would like to stress for other witnesses that we ensure they're given the best possible opportunity to be witnesses and not discouraged from coming to Ottawa, if that's their preference.

The Chair: Thank you very much.

Again, for information, we do have a motion coming forward on Thursday. Do you want to speak briefly to it, Mr. Julian?

Mr. Peter Julian: I will speak briefly to it. It's involving an issue that has come up before at Transport, the issue of the Toronto Port Authority. A report has now been completed, so the motion itself would ask for this committee to look at the report and receive copies of the report, and it is both from me and an associate member of this committee, Ms. Chow, from Trinity—Spadina. We have circulated it to the clerk. I believe it's going to all offices this afternoon, satisfying the 48-hour notice requirement. I would ask for time on Thursday to discuss that motion.

The Chair: You will receive that. I'm sure it will be e-mailed to you after the end of this meeting, and we will allocate some time at the end of the meeting, again, on Thursday for discussion.

With that, no further questions?

The meeting is adjourned.

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