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Chair

Mr. Merv Tweed

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• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Welcome.

I'll call the meeting to order of the Standing Committee on Transport, Infrastructure, and Communities. It's meeting 19 and we're 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.

Joining us today, we have from the City of Quebec Monsieur François Picard; from the City of Lévis, Jean-Pierre Bazinet; from the City of New Westminster, through telecommunications, Jim Lowrie; from the City of Langley, Mr. Peter Fassbender; and from the Township of Langley, Mr. Kurt Alberts.

Mr. Colin Wright (General Manager, Engineering, Township of Langley): I'm sorry to interrupt, but it would be Mr. Colin Wright from the Township of Langley.

The Chair: That's right, I apologize. I have the newly edited version in front of me now. Thank you.

One of the requests I've had, and I hope the committee will bear with me, is that we have Mr. Warawa, who is from the west...I would like to start with the teleconference communications. He won't be asking questions, but he has taken the time to be here and he asked to hear their presentations. Is this okay with the committee? Is it in order?

Some hon. members: Agreed.

The Chair: All right.

From the City of Langley, then, Mr. Fassbender.

Mr. Peter Fassbender (Mayor, City of Langley): Thank you very much. It's a distinct pleasure to be able to speak to the committee today.

I am the mayor of the city of Langley, and I represent the perspective of this community as it relates to rail issues. I think the most important thing for the committee to know is that we fully recognize the challenges that a growing rail network poses right across the country.

However, there are varying impacts on communities. The city of Langley and the township of Langley are neighbours, and we are very much involved in aspects of the rail impact on our communities. We feel we have a very strong perspective and that we are perhaps in a unique situation.

In our community, the city of Langley, which is ten square kilometres—or four square miles—in area, we have in effect five level crossings that impact our community. Those crossings are all signalized. Through Transport Canada, we have been able to remove the whistling on four of those five crossings. The fifth one is being worked on as we speak. The impact of the train whistles has to some degree been minimized. However, we have crossings just outside of our border, in the city of Surrey and in the township of Langley. Because we live very close together, when the whistles blow for those, it of course impacts our citizens.

The other major issue we face—and I know the terms of reference of the committee are fairly broad and that there are a number of issues being deliberated—is safety. In our city, if a train stops at an inappropriate place anywhere within that four square miles, in effect our city is totally cut off from the north to the south. No emergency vehicles could cross through the normal routes. That has been a significant concern for many years now. It has a significant impact on the township as well, because of the length of trains—both the coal and the container trains—that go through our community from Roberts Bank.

The second critical element is that we currently have a significant traffic problem. All our crossings are over the normal warrants that have been defined by Transport Canada. Most of them—three of the major ones—are well over double what the current warrants are. In the township and the city, every single crossing we are referring to is over those recommended minimum warrants. So we have a significant problem with congestion that results from trains going through our community. Just to give you an example, if we have a 12,000-foot train that goes through our community, the traffic impact at every one of those crossings can last up to 20 to 25 minutes after that train has passed through. There are some significant congestion problems that come out of it.

The City of Langley is currently building a north-south overpass. We received minimal funding from the federal government for that project, but fortunately, the provincial government, TransLink, and the city came up with the necessary resources. So we have one crossing being built, and we totally support a second crossing in the township of Langley. This will eliminate one crossing that we share and help with east-west access, so that we again can mitigate some of the negative effects and safety issues we have.

That really is the essence of what I wanted to share with the committee. Of course I'm happy to answer any questions, should you have them.

• (1540)

The Chair: Thank you, Mr. Fassbender.

I'm going to ask Mr. Wright to speak now.

Please begin.

Mr. Colin Wright: Good afternoon. My name is Colin Wright, from the township of Langley.

Our principal concerns related to the Roberts Bank rail corridor are to do with safety. There's been a problem with safety for 15 years or more, as train traffic has increased through the corridor. We're now at the point where the port wishes to expand, and we understand the importance of this to Canada; it's really important that the Pacific gateway work well, in the context of the national and the provincial transportation systems.

Almost 100 years ago our forefathers made some bold investments in the railway, and they have served us incredibly well. We need solutions now that are going to last us for the long term too, but there are some immediate needs that need addressing straight away. They're long past due.

As Mayor Fassbender has reported, we have congestion in the city and in the township almost every hour, and at peak hours and during the day there's total gridlock. A train may pass through and occupy the rail crossing for less than five minutes, but the residual congestion takes 20 to 25 minutes to clear. At this time, it's impossible for the emergency services to function properly.

Some relief is being given by the north-south grade separation that's being installed as we speak, but to complete an east-west relief is absolutely critical at this time.

The township is anxious to be part of the solution. We basically are ready with funding to participate in getting this crossing in immediately. It would be advantageous if we could move the project forward just as soon as we possibly can. There's a study under way, which we expect to be completed before year-end. Our understanding is it's most likely to indicate that the works in Langley are a top priority in the corridor.

We also have an economic centre in the township and the city. It's actually the largest retail commercial area in the province, outside downtown Vancouver. This is an important area of commerce, business, and employment, and this train's impacts are making real damage to that growth and activity at the Willowbrook shopping area.

We got here really because there was an agreement in 1907 for trains up to about six cars long. We now have trains that are 12,000 feet and are possibly experimenting with ones going to 15,000 feet. The addition of the third berth at Deltaport will increase traffic impacts by 32%. There are plans to double that capacity after the third berth is completed.

Really, this is a success story, in that we have trade with China and the Far East. But it's important that we put in infrastructure so that the systems work safely. I believe that with the attention the federal and provincial governments are giving this issue right now, solutions are on the horizon, but we must stress the importance of moving straight away with the 64th Avenue-Mufford Crescent grade

separation to deal with the existing and long-standing safety issues we have there.

Thank you.

The Chair: Thank you very much.

I'll ask Mr. Lowrie now to make his presentation.

Mr. Jim Lowrie (Director, Engineering Services, City of New Westminister): Thank you, Mr. Chairman and members of the committee.

My name is Jim Lowrie, and I am director of engineering at the City of New Westminister. My submission is on behalf of Mayor Wayne Wright, and we're pleased to make this submission today.

Incidentally, Mayor Wright does invite members of the committee to the city of New Westminister to experience firsthand the impact of railway operations on the city.

By way of background, the city of New Westminister was the first incorporated city in the province of British Columbia, incorporated in 1860. The city is located on the north shore of the Fraser River and has strong historical ties to the river and to the railway, principally in the later half of the 19th and early 20th centuries. Today the city of New Westminister is a thriving city with a population of approximately 60,000. The city occupies only 15 square kilometres, making it one of the most densely populated in the greater Vancouver metropolitan region.

The city hosts three major railway companies, each having marshalling yards located in relatively close proximity to residential neighbourhoods. Approximately 40,000 residents—over two-thirds of our population—live within one kilometre of a railway line or marshalling yard.

Historically the cooperation of railway companies in responding to neighbourhood complaints has been inconsistent. While some complaints are addressed, most others are not—complaints relating to shunting railcars, idling engines, squealing wheels on rails, and excessive whistle-blowing. It is the experience of city staff that railway companies have not been highly cooperative in modifying their operation to address the concerns of residents, particularly during the late night hours.

Mr. Chairman, specific comments on proposed Bill C-11, and we're speaking to clause 29 of this legislation, which suggests modifications to section 95 of the Canada Transportation Act. This section talks to the operation of railways, that they must not make unreasonable noise, taking into account various matters, including their own operational requirements.

Our submission would be that the balance here is between making unreasonable noise as it is perceived by residents and the operational requirements of the railway companies. Past experience in New Westminster has shown that railway companies are reluctant to modify their operations in meaningful ways to reduce or eliminate excessive noise, particularly in late night hours. We suggest that the use of language such as “unreasonable” invokes a high degree of subjectivity to the legislation.

With respect to proposed section 95.2, the concern here is the mention that the agency “may issue...guidelines”. We believe it's imperative the agency issue guidelines. That “may issue” should be a “must”, in our view. Perhaps the guidelines should be in the form of regulation. The guidelines are not proposed to be statutory, and we believe the guidelines or regulations must be made to be readily and easily enforceable. Given the geographic variation among municipal jurisdictions across the country, the logical enforcement agency would be local government. The suggestion here is the noise parameters could be nationally legislated, i.e., based on CMHC guidelines or those of some other agency.

With respect to proposed section 95.3, we question what authority the agency has in ordering operational changes of a railway company and what enforcement methods would be used in gaining compliance if the other companies are found to be non-compliant with adopted guidelines and regulations.

Mr. Chairman, in summary, we believe the intention of the proposed bill is laudable and commendable. The aforementioned suggestions are provided in the spirit of strengthening, improving, and providing clarity to the proposed legislation.

Thank you for the opportunity.

● (1545)

The Chair: Thank you, Mr. Lowrie.

I'll now go to Monsieur Picard from the City of Quebec.

Due to age and bad eyesight, I can't read the name of the guest you have with you. Perhaps you could please introduce him and then make your presentation.

Thank you.

[*Translation*]

Mr. François Picard (Second Vice-President of the Executive Committee, City of Quebec): I am accompanied by Mr. André Demers, alderman for the Sainte-Foy sector, where there is a marshalling yard. Mr. Demers is also President of the Commission aménagement du territoire et transports.

I am also accompanied by Mr. Marc des Rivières, who is a professional director and expert on transportation for the City of Quebec.

First, the City of Quebec would like to thank the members of the House of Commons Standing Committee on Transport for the opportunity to present his comments on Bill C-11.

● (1550)

[*English*]

Thank you for listening to us. And of course, my presentation will be in French.

[*Translation*]

I will begin by talking about noise generated by railway operations, by addressing the legal framework as well as the overall approach that the City of Quebec is proposing. If time allows, although you already have our brief in hand, we will also discuss other nuisances or issues that could be improved in the bill.

First, I will talk about the legal framework with regard to noise generated by railway operations. In the short-term, the City of Quebec recommends that amendments be made to Bill C-11 as follows.

First, we recommend the reintroduction of the wording proposed in the former Bill C-26 so that railway companies are required to produce the least possible noise, replacing the wording of Bill C-11 which states the obligation "not to make unreasonable noise".

In other words, like the mayor of a municipality in British Columbia who spoke before us, we believe that the expression "unreasonable noise" is too vague and leads instead to confrontation with the railway companies. Consequently, we propose amending the wording which, although it is only two words, has vast implications for the City of Quebec.

Second, we recommend adding, in the new section 95.1 under Bill C-11, the following: "that noise levels caused by the railway operations shall not harm public safety or cause negative effects such as disrupted sleep for persons living in residential areas adjacent to switching yards or along railway lines".

Third, we recommend subjecting railway companies under federal jurisdiction to provincial and municipal laws and regulatory provisions concerning public nuisances and nocturnal noise in order to preserve the quality of life of populations living near railway facilities.

Another approach would be to reduce railway noise at the source. Even if the wording that companies make the least possible noise is reintroduced, we could require the companies to reduce noise sources by doing research and development on new technologies that would allow them to directly reduce the amount of noise caused by the cars.

Those are our recommendations with regard to the legal framework.

With regard to adopting a more comprehensive approach, the city proposes as part of a long-term strategy the adoption of a national railway noise reduction policy setting orientations, objectives and the most appropriate action strategies. This policy could be developed by Environment Canada, jointly with Health Canada, since it is part of a public health and noise pollution approach.

We could develop noise maps of areas where residents are subjected to excessive noise levels in order to gradually eliminate black spots. We could also give priority to reviewing the sites causing the greatest harm during the night, when thresholds exceed fixed limits.

We could also give priority to at-source noise reduction measures—such as those I mentioned earlier—by taking into account the three types of noise: rolling noise, locomotive and auxiliary equipment noise and switching noise.

Furthermore, various specific measures, some of which are presented in section 1.6.1, to reduce railway noise gradually through retrofits and better maintenance of rolling stock and railway lines, subject to available funds, could be taken.

• (1555)

A number of European countries have adopted regulations relating to decibel levels. It starts at 55 decibels, which corresponds with normal annoyance caused by noise, and goes up to 65 decibels which, according to the OECD, corresponds to constrained behaviour patterns, symptomatic of serious damage caused by noise. If you wish to take the idea of "least possible noise", you could adopt a targeted strategy in the hope that the noise from switching yards or trains will not exceed 55 to 65 decibels, during the day, when noise could reach as high as 65 decibels, or at night, when noise levels should not exceed 55 decibels.

So, a number of European countries have adopted similar regulations, which exceed what you are proposing, but which could prove interesting in the long-term, particularly if we opt for a comprehensive approach and a national railway noise reduction policy.

Other measures in our brief address other nuisances. Railway companies must be required to comply with local legislation and regulations on environmental protection and the protection of public health and safety, particularly with regard to odours and unhealthy conditions.

We propose that the bill require railway companies to put a communications plan in place aimed at resident populations concerning railway operations involving the transportation of hazardous goods.

With regard to, in particular, the obstruction of public crossings, there must be concrete measures requiring the strict application of paragraph 103(c) of the Canadian Railway Operation Regulations, so that no switching done at crossings can block road and pedestrian traffic for more than the five-minute maximum prescribed by those regulations.

Obviously, the City of Quebec is faced with one last nuisance related to train whistling. Section 11 of the Railway-Highway Crossing at Grade Regulations needs to be reviewed in terms of the allocation of cost for the construction and maintenance of new grade crossings, so that the benefits associated with railway facilities in urban areas can be equally shared by the railway company and the local government.

Currently, the municipality pays 100 per cent of the cost of changes made to grade crossings. We believe that at least 50 per cent

of the cost of changes to grade crossings should be paid by the railway companies.

I have used my seven minutes. We are prepared to answer any questions you may have. Once again, I want to thank you for having taken the time to listen to us.

[English]

The Chair: *Merci, Monsieur Picard.*

Mr. Bazinet, I would ask you to introduce your guest also. Please proceed.

[Translation]

Mr. Jean-Pierre Bazinet (President, Chutes-la-Chaudière East Sector, City of Lévis): Since my knowledge of English is limited, I will speak to you in French.

To the Chair of the Standing Committee on Transport, first we want to thank the members of the committee for allowing us to speak about our experience with noise generated by the Joffre switching yard in Charny. Our comments will pertain to an aspect of rail transportation which bears witness to the problems associated with the co-existence of rail traffic and daily life in an urban environment.

You have received our brief. I want to read you a summary that will be provided to you, if you so wish.

My name is Jean-Pierre Bazinet and I am a municipal councillor for the City of Lévis. I am also president, Chutes-la-Chaudière East Sector, which includes the neighbourhood of Charny, Breakeyville, Saint-Jean-Chrysostome and Saint-Romuald.

I am accompanied today by Mr. Alain Lemaire, who is the municipal councillor for Charny and former mayor of the City of Charny, now part of an agglomeration. I am also accompanied by Mr. Alain Blanchette who is chief of staff of the mayor of the City of Lévis, Ms. Danielle Roy-Marinelli. Finally Mr. Michel Hallé, a lawyer and legal advisor at the Direction des affaires juridiques for the City of Lévis, is also here with me.

First, that current City of Lévis is the result of the merger of 10 former municipalities which became neighbourhoods of that city on January 1st, 2002. This city is home to some 127,000 people, making it the eighth largest city in Quebec.

The history of the railway and Lévis heritage are intertwined. The railway was an important leader for economic development throughout the ages, and its rich tradition has grown over the years. Currently we want to maintain rail operations within our area, but in a more harmonious way.

Our brief deals with the following aspects: noise generated by the Joffre switching yard and its effects on public health; Bill C-11 and its amendments; finally suggested additions to the Bill.

As part of its activities, Canadian National operates a switching yard within the boundaries of Charny and Saint-Jean-Chrysostome. Given the elevated noise levels generated by switching operations conducted by Canadian National, numerous complaints have been laid by residents of the three former neighbourhoods that existed prior to the merger in 2000, as well as by residents of the other neighbourhoods that I mentioned earlier.

These residents believe that the noise pollution caused by CN's operations, particularly in the evening and at night, is affecting their health and impedes their peaceful enjoyment of their property. This situation came about in 1998 — and that date is important. Previously, the switching yard and the residents lived in harmony. The new situation coincided with the privatization of the company, which streamlined its operations not only in Quebec, but throughout Canada.

In that respect, the problems experienced by the residents of Charny are similar to those encountered in other cities in Canada. The preceding testimonies are compelling.

When CN failed to take action, a large number of affected residents signed a petition that was presented to the council of the former City of Charny in 2000. The municipality also received letters from home owners describing the situation as unacceptable and intolerable.

The former City of Charny decided to support the citizens' committee opposed to the noise from the Joffre switching yard in Charny. It hired an engineering firm Dessau-Soprin to conduct a noise study to measure the effect of CN's operations. The study, tabled in February 2000, copies of which I have, showed that the impulse noise mainly comes from such activities as switching of cars, acceleration and deceleration of locomotives, hooking together of cars, breaking of trains, train whistles, train movement, loaders, tow trucks and other vehicles and back-up beepers.

In 2001, the Public Health Department of the Chaudière-Appalaches Health and Social Services Board conducted an analysis of the situation and produced a report entitled "Assessment of the public health risk associated with environmental noise produced by operations at CN's Joffre switching yard in Charny."

The study concludes, and I quote:

Based on the available noise measurements the literature review and the specific context, we find that the environmental noise to which many of the people living in the residential area adjacent to CN's Joffre switching yard adversely affects their quality of life and potentially their health. Such noise levels are therefore a nuisance to the peace, comfort and well-being of the residents near the Joffre switching yard in Charny.

From a public health stand point, these noise levels are likely to have an adverse affect on health by disturbing sleep, which in turn has a number of side effects.

These noise levels are in our view incompatible with residential zoning unless special measures are taken to reduce the noise.

● (1600)

Around the same time, the residents of the City of Oakville, Ontario, filed a complaint with the Canadian Transportation Agency under the Canada Transportation Act. In its decision, the agency determined that CN was not doing as little damage as possible in the exercise of its powers. Accordingly, the agency ordered CN to take certain measures, among them preparing a long-noise reduction plan satisfactory to the agency.

This decision was a source of tremendous hope for the residents of Oakville and Charny. In response to the decision, CN decided to challenge the Agency's jurisdiction in the Federal Court of Appeal. In a ruling handed down on December, 2000, the court found that the Canadian Transportation Agency did not have jurisdiction under the

Canada Transportation Act to deal with complaints about noise, smoke and vibration from duly authorized railway operations.

In the wake of the decisions in the Oakville matter, the Canadian Transportation Agency decided to offer a mediation service in a bid to resolve disputes similar to those in Oakville and Charny. In March 2001, the former City of Charny and the citizens' committee submitted a request for mediation to the Canadian Transportation Agency. CN agreed to mediation. Unfortunately, after several meetings between the parties, we concluded that the mediation was not going to work. Bound by an undertaking to preserve the confidentiality of the discussions, we are unable to provide further details. We can say, however, that the City of Lévis which succeeded the former City of Charny on January 1st, 2002, made every effort to find a solution acceptable to its residents and even delegated to the mediation meetings three elected representatives, including two members of the executive committee at the time.

Section 29 of Bill C-11 introduces four new sections dealing specifically with the noise caused by operation of a railway. We are especially pleased that Parliament decided to fill a major void in the process of resolving disputes between the community and the railway company by giving the Canadian Transportation Agency clear authority to make orders to rectify a noise problem.

The new section 95.3 restores the monitoring authority the agency lost as a result of the Federal Court of Appeal decision in the Oakville case. This section restores to Canadians a mechanism for control that they had lost for more than six years, and which was causing problems. This would make it possible to turn to a tribunal with jurisdiction in order to condemn situations affecting public health.

Without making any assumptions about the agency's future work, we hope that the attitude the agency showed in the Oakville case will govern its orders. We believe that the wording used in Bill C-26 in 2003 requiring railway companies to make the least possible noise was better than the wording used in the current bill. We believe that the current wording waters down the obligation of railway companies to operate their facilities in a way that respects their neighbours. On the contrary, we want section 29 to be reinforced by adding a clause stating that railway companies are not to harm public health in the course of their operations. We are concerned that the obligation of railway companies to refrain from making unreasonable noise is subject to operational requirements.

Operational requirements should not be allowed to preclude that obligation. It should therefore be made clear that what must be taken into account is the company's essential operational requirements not just any requirements. For example, operational profitability should not be used to relieve a railway company of its obligation to refrain from making noise.

• (1605)

Section 7 of Bill C-11 establishes the framework for the mediation process the Canadian Transportation Agency has been using for several years. As a result of our experience in this area, we are very hopeful that the prescribed 60-day mediation period will be reduced to 30 days as proposed in Bill C-26. We believe that 30 days is enough time to try to voluntarily resolve a dispute provided the parties make the necessary effort. More than 18 months should not be allowed to pass between a request for mediation and an outcome as was the case in Charny.

In addition to expressing support for the amendments as indicated above, we would like to take this opportunity to suggest that Bill C-11 be amended to give the Canadian Transportation Agency jurisdiction over the use of train whistles. More specifically, we believe it would be appropriate for every request to prohibit the use of train whistles within municipal boundaries to be reviewed by the CTA in cases where the municipality, the railway company and Transport Canada cannot agree on the requirements for no-whistle regulations.

Furthermore, we support the request from the Union des municipalités du Québec made by its President Jean Perrault in his letter of July 6th, 2006, to the Honourable Lawrence Cannon, Minister of Transport of Canada, to establish tangible measures for ensuring the rigorous application of Rule 103(c) of the Canadian Rail Operating Rules, which states that “no part of a train or engine may be allowed to stand on any part of a public crossing at grade for a longer period than five minutes”, and to permit the application of Rule 103(c) of the Canada Rail Operating Rules to moving trains. In fact, vehicle and pedestrian traffic blocking a crossing for more than five minutes can lead to public safety problems, especially where the blockage prevents safety services such as firefighters police and ambulance vehicles from providing the required services.

The problem of noise, caused by railway operations is a fundamental priority for the City of Lévis. This situation is causing problems for more than 10,000 people in our area. A great deal of effort has been made in the past to restore the peace and quiet the neighbourhood so amply deserves. Unfortunately, our efforts have been in vain. That is why we support the federal government's desire to give Canadians a forum in which to assert their rights. However, we believe that the wording of section 29 of Bill C-11 must be amended to ensure that the objective of the legislation is met.

Mr. Chairman and members of the committee, I want to thank you for your attention.

• (1610)

[English]

The Chair: *Merci, Monsieur Bazinet.*

We'll start with questioning. Mr. Bell will begin.

Mr. Don Bell (North Vancouver, Lib.): Thank you, gentlemen, for appearing today.

For those from Langley and New Westminster—the township of Langley and the city of Langley—I am somewhat familiar with the west coast issues.

Mayor Fassbender, Colin Wright, and Jim Lowrie from the two Langleys and New Westminster, and we had witnesses by telephone again earlier this week—on Tuesday, in fact—from both Richmond and New Westminster. They were representing residents groups who had expressed concerns about train whistle and railway noise from rail operations, particularly from the shunting of cars. I know that in the case of New Westminster there was a suggestion that a number of high-rise towers were within 100 metres of some of the railway track.

I am wondering if perhaps the three gentlemen I've mentioned could give reference to the issue of train whistles and the shunting noise and how they see the authority in proposed sections 95.1 and 95.3 in particular.

Jim Lowrie, you said that under proposed subsection 95.3(1), that “may” should be “must”. Do you have any suggestions with respect to that and to whether the term “unreasonable noise” is adequate, or whether there needs to be a closer definition, either closer to World Health designations, or whether some decibel level should be set?

Mr. Jim Lowrie: Thank you, Vice-Chair Bell.

I am Jim Lowrie, here from New Westminster. I'm also accompanied by Mayor Wright, who has joined me and may wish to offer a few words.

Mr. Don Bell: Welcome.

Mr. Jim Lowrie: With respect to proposed section 95.3, I think you meant proposed section 95.2—

Mr. Don Bell: Yes, I'm sorry.

Mr. Jim Lowrie: —the area where the agency may make regulations or, pardon me, guidelines.

It is our submission that the agency must. We believe that should be “must”, not “may”, and in our view the guidelines should be in the form of regulation, if that is at all possible.

Yes, we do believe that the guideline or regulation should be based on some established criteria. We suggest the CMHC, who have decibel levels for residential neighbourhoods, or if there's some other recognizable agency—the World Health Organization, as you referred to—that some objective standard be made, rather than the subjective language as is proposed. Your definition of “reasonable” versus mine versus a railway company's may leave a lot to be desired.

Perhaps that answers your question, Mr. Bell.

Mr. Don Bell: It does.

Mayor Fassbender, do you have any comment?

Mr. Peter Fassbender: Relative to some of those issues, we support what New Westminster is saying, because they're really faced with the issues of shunting and movement of a lot more cars within their rail yards.

Our issues are pass-through trains, the volume of trains and, with whistles, definitely the noise level they create and how that might disturb the citizens. But we don't have the same issues in either the city or the township as they have in New Westminster and some of the other cities that have been making presentations.

• (1615)

Mr. Don Bell: Thank you.

Colin Wright, do you have any comment?

Mr. Colin Wright: My only comment really is this. You know, things that are somewhat discretionary, because they haven't any fixed levels attached to them, don't have any real effect. So we'd really like to see something whereby the decibels are actually indicated at the thresholds.

Mr. Don Bell: I commented earlier this week on my experience, obviously in North Vancouver, with the problems of the trains, particularly with the takeover between BC Rail and CN. The noise levels seemed to accelerate because of different operational methods and standards, and shunting was going on all night.

We had a presentation from the lady speaking from New Westminster, Joan Fisher, who on Wednesday, October 11, starting at midnight and going right through the evening, detailed all the noise that had occurred almost hour by hour. In my previous life as mayor and since then as MP, I've heard those kinds of things from residents in North Vancouver, so I have some empathy for the points that have been made.

Mayor Fassbender, you referred to the issue of train crossings. The gateway proposal that we put forward last year as the previous government, and I believe it's being responded to in terms of the announcement we heard last week, included a number of rail grade separations so that the trains could move through and the interference between train/truck traffic and train/car traffic would be reduced and there wouldn't be the need, perhaps, for the amount of whistling that can disturb a neighbourhood. Are you expecting to see some relief in that area?

Mr. Peter Fassbender: Yes. We are, indeed, with the current overpass that we're building, plus the one that is proposed. Needless to say, with grade separation there is no need for whistling, so that will provide some significant relief for our citizens who are fairly close to the rail lines.

Mr. Don Bell: Thank you.

I have a final question to the three gentlemen. I apologize to the gentleman from Quebec. I have other members here who I'm sure can pick up on your questions, but I am familiar with B.C., obviously.

The description is that they're looking toward a collaborative approach, mediation with the community, with the municipality, with the residents who are complaining, and I'm wondering how you have found the voluntary process working so far. I wonder whether there needs to be...it's sort of insinuated in the bill that there needs to be teeth to force the railways to have serious discussions, because in many cases, I'm told, meetings with the railway have been less than satisfactory. Their attitude has been poor in responding to complaints under this so-called voluntary process that's in place.

Mr. Peter Fassbender: Our experience would echo those comments. We have been disappointed in the length of time it has taken to get the railways to the table to discuss local issues that need focus and priority. Each of the railways has been a little bit different. Irrespective of where this goes, we want every one of them to respond in a manner that is sensitive to the local needs of each community.

Mr. Jim Lowrie: I agree with the comments made by the witnesses from Quebec. In this community, we have three railways with marshalling yards. Without naming names, there is a wide variation in how the railway companies respond to complaints. One of the larger companies has a PR person who is quite responsive. With others, we're dealing with operations personnel who have other priorities in mind. Historically, the collaborative process has not been workable. We believe there needs to be a common standard, and that the guidelines proposed in the legislation should be firm and in the form of regulation.

• (1620)

Mr. Don Bell: Thank you.

The Chair: Thank you.

Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you, Mr. Chairman.

First, I want to thank the representatives of the City of Québec and the City of Lévis as well as of the City of New Westminster, the City of Langley and the Town of Langley.

Rail transportation is increasing. The cost of oil and gas means that an increasing number of trips are made by rail, which is good. The problem is that this situation means increasing problems over time. I see Mr. Alain Lemaire here whom I knew in another life, when I was with the Union des municipalités du Québec.

I want to ask you the question my colleague raised earlier, namely that mediation was a failure. That is why we see situations such as this occurring. Legislation needs to be adopted to resolve this situation. I believe that is our role. You can count on the support of the Bloc Québécois to ensure that such legislation is passed quickly in the House of Commons. There must not be yet another election before legislation can be passed.

Mr. Lemaire, based on your experience with mediation and this entire process, what were the results and why are we facing the situation before us today?

Mr. Alain Lemaire (Member Executive Committee, City of Lévis): Mr. Laframboise, committee members, good afternoon.

We have worked hard in Charny in an attempt to resolve or minimize the problem. After Oakville's failure we knew that we would not get anywhere. The CTA no longer had any authority however we did turn to them for mediation. Canadian National agreed to sitting down at the negotiation table with us, in the presence of the CTA. The discussions, which were confidential, lasted for 18 months. Nothing came out of these discussions.

I had experienced this in other areas. My impression is this. It's really quite simple: Canadian National spends a few hundred thousand dollars on hiring four or five lawyers, has them sit down with us, along with five, six or seven experts, and buys time. They succeed by wearing us out. In our case, the citizens' group ended up giving up. People left feeling that they couldn't do anything. That has been our experience of mediation.

That is why we are insisting so strongly on giving the CTA real authority and on developing a legislative framework that will allow for action to be taken. This is the only business in our environment that does not have to answer for its actions.

Mr. Mario Laframboise: That brings me to the question I would like to ask the people from Quebec City.

The city of Lévis' brief was very good. I also read the documents submitted by the Union des municipalités du Québec. There is considerable pressure in Quebec. However, it must be clear that any proposed amendments that change the nature of the bill will not be in order.

I agree with you that the basic definition, that is "unreasonable noise", has to be modified. We need to determine whether or not replacing it with the expression "the least possible noise" is the best alternative. We'll see. The best approach would probably involve measuring decibels but we need to determine whether or not that would completely change the nature of the bill, thereby rendering it inadmissible. We mustn't make that mistake. Committee members will be considering those questions. I think they all want to solve this problem.

I quite like your second amendment which involves adding, in new section 95.1, that noise levels caused by railway operations shall not harm public safety nor cause negative effects such as disrupted sleep.

I think it would be good to state that guidelines must be established. Perhaps decibel levels could be used for that purpose.

Your third amendment, an equally important one, would subject federal jurisdiction to provincial and municipal laws. That is a dream that I do not think the Canadian Constitution would allow but obviously the idea should be analyzed.

I would like you to tell me which provisions you would like to see adopted. You could also tell us about the problems you are experiencing at the Sainte-Foy and Limoilou marshaling yard.

Mr. François Picard: With your permission, I will begin. Mr. Demers experiences this problem on a daily basis along with his citizens so he will be able to expand on my answer.

• (1625)

Mr. Mario Laframboise: You have the floor.

Mr. François Picard: For a variety of reasons, several railway lines were closed down in Quebec over the years. On the other hand, railway traffic has increased. The activities are concentrated on new lines as well as on two switching yards. Even as the deregulation of transportation was taking place in 1996, railway lines were being closed down. Traffic therefore increased in the switching yards, including the one in Sainte-Foy.

It must be understood that the railway companies are struggling more and more with just-in-time delivery. When we talk about just-in-time delivery, we are talking about evening and over-night work in order to deliver merchandise as quickly as possible. This is what we are currently experiencing in the vicinity of the City of Quebec. More and more, people are awakened at night and are suffering from health problems. There has even been an increase in stress. At this point, I will ask Mr. Demers to continue.

Mr. André Demers (Municipal Councillor, City of Quebec): As far as the solution to the problem related to increased rail operations is concerned, the bill—I also checked in the background documents—suggests that there should be cooperation and partnerships. The current wording could result in things remaining at the level of lip service, magical thinking or indecisive statements. To ensure that this doesn't happen and that the bill truly be enforceable, it is important that criteria defining noise be passed, whether it be within the legislation or, for example, by allowing the CTA to establish guidelines when the time comes to assess the solutions.

These criteria affect the people's health, and this includes sleep disturbances. All of these elements really bother people. It is truly an issue of assault. I live more than a kilometre from the switching yard and yet, I have been awakened—my window was open, I must admit—in the middle of the summer several times over the course of the last few years. I do not consider myself to be a victim in this situation, but I represent people who live close to the yard. Health problems and sleep disturbances are very important elements. We also have to think about the economical aspects, for example the loss of productivity, whether it be at work or carrying out daily chores.

It is also very important to understand that the problem exists because the company has the same infrastructure and the same technology whereas the level of operation has clearly increased exponentially. There is therefore a disconnect between the quality of the technology being used and the objectives to achieve, that is the fulfilling of their mandate. It is this time lag that has consequences for the neighbouring populations.

We know that urbanization came about through this process. Canadian National—as an example—is over 100 years old. In truth, Canada became urbanized only after 1921. Statistically, we recognize that there has been more than a 50 per cent level of urbanization. It is clear that urbanization followed closely along the rail lines. Nevertheless, this allowed for an increase in productivity and financial performance of this company. Now, the people who are victims of this situation must be compensated.

It is therefore very important that there be criteria in terms of health and safety. A resolution was unanimously adopted by the members of the city council. You should have received it. If you did not, I can send it to you. It states that within the scope of its activities, the company must reduce noise that could badly affect the quality of life and health of the neighbouring populations as much as possible. It is critical that we deal with this issue. It should be included in the legislation and not simply suggested by the legislator, as is presently the case.

I thank you.

•(1630)

[*English*]

The Chair: Thank you.

Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you very much, Mr. Chair.

My thanks to all the witnesses for being present today. I've particularly enjoyed our special guests from New Westminster, Mr. Lowrie and Mayor Wayne Wright, who is hopefully still there. We appreciate your coming forward.

Mr. Lowrie, I'd like to get back to your presentation. You talked about the New Westminster Quay area. We had Brian Allen, who was representing the New Westminster Quay residents association, with us on Tuesday. He spoke to some of the difficult issues residents of New Westminster Quay have faced in trying to mediate or in trying to negotiate with the railways—three that you mentioned, plus Southern Railway of British Columbia.

If you could, I'd like you to touch upon what some of the issues have been. I know New Westminster City Hall and Mayor Wayne Wright have been involved in discussing with the railways how to resolve some of these issues. What has the outcome been, more specifically on the evening noise that we've had in the sorting yard in particular?

Mr. Jim Lowrie: The New Westminster Quay is a waterfront community on the Fraser River foreshore. It has a population of about 3,000 people in high-rise condominium properties. They back immediately onto a rail marshalling yard, and there is no stop to the complaints we receive from this neighbourhood.

It's one of our premier neighbourhoods, and it is set for expansion. All planning approvals are in place for expansion of this neighbourhood, which is located along the waterfront and abuts on the rail yard.

We have had some cooperation from the rail company. They are quite good at giving out notices. However, our efforts to convince them to cease some of their activities during night hours have been almost fruitless. We have no stop to the complaints we receive from New Westminster Quay residents, and we have had little cooperation from the railways.

There is a need for some established criteria in the form of a regulation or law, something that can be enforced. The city has no authority to enforce its own noise bylaws, as is done in other communities.

Mr. Peter Julian: Mr. Lowrie, having mediation or negotiation rather than obligatory regulations would mean that the issues you're mentioning would continue. Is this correct?

Mr. Jim Lowrie: In my view, yes, they would continue.

Mr. Peter Julian: Could you give us a couple of examples? Mr. Allen spoke a bit to this on Tuesday. Without mentioning the names of the companies, could you give us a few examples of unresolved issues?

Mr. Jim Lowrie: I have numerous examples. One is that stationary engines, before being hooked up to rail cars, have been parked close to residential dwellings, with their engines running. Then, when they are hooked up to rail cars, they fire up the air lines, which is a noisy process. People in the neighbourhood feel this is being done to spite them. Of course, this is unsubstantiated, and it may not be the case.

There are almost nightly complaints from shunting and banging. The operation in the rail yard is done at a speed higher than what you might think would be reasonable. There is a lot of back-and-forth, a continual banging of cars and engines.

In close proximity is a rail bridge to Annacis Island, an industrial area south of the city in a neighbouring municipality. The approach to the bridge has a very tight radius, and as trains go through there's a great squealing of brakes. We've had some success in getting them to lubricate the tracks, but it requires a lot of maintenance and it's not always done. So there has been some response, but it's certainly not up to what the community believes is required, particularly in residential communities.

•(1635)

Mr. Peter Julian: Mr. Allen mentioned in his testimony on Tuesday that the obligatory measures should cover restrictions on activities. He was proposing business hours for certain types of railway activities in sorting yards near areas with high population densities. He suggested that this would be an effective way of pushing the railways to make better choices. He thought that some of the railways would put their sorting operations out towards the Port Mann yards, where there is no high population, and move fewer activities into the New Westminster Quay area. So that's one proposal.

The other proposal we've heard today, from Quebec and Lévis, is to set restrictions or regulations on decibel levels. I'd like to ask each of the witnesses to comment on the obligatory aspect of the regulation. Should it be based on activities and have restricted hours, which has the advantage of restricting night activities, or should it be based on decibels, which may be more difficult to track?

I'd like to start with you, Mr. Lowrie, and then work through each of the witnesses.

Mr. Jim Lowrie: Thank you, Mr. Julian.

My response is that I think it would be a bit of both. I think during the daytime hours there could be a different standard from what there is in the evening hours, as far as rail operations go. I would draw a comparison to the Lower Mainland here, where there are a number of trucking companies. My impression is that they typically operate during daylight hours only, so they effectively close down at night.

I appreciate that the railway companies run on a 24-hour clock, but if a marshalling yard is located within close proximity to residential neighbourhoods, I believe there should be some acoustic restrictions placed on the operation of that yard in the evening hours.

Mr. Peter Julian: Thank you.

Mr. Fassbender, go ahead, please.

Mr. Peter Fassbender: I would simply echo what has just been said. As I said, we're not affected by marshalling yards. I think the solution has to have the kind of teeth in it to ensure that the levels being either suggested or built in can be enforced.

The Chair: Thank you.

Monsieur Blaney, go ahead, please.

[*Translation*]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): I would like in turn to extend the warmest greetings at the Standing Committee on Transport to you. As you have seen, parliamentarians are capable of showing discipline and asking questions that concern many Quebeckers.

Furthermore, Héléne Bernard, who is here today and lives in Charny, was telling me that last night yet again, at 1:30 a.m., the noise from the Charny switching yard bothered her. I am thinking of Mr. Julian among others and his constituents in British Columbia. We can see that it really is a problem from sea to sea.

Thanks to one of your presentations, we have realized today that we are sometimes dealing with a corporate citizen whose behaviour can be questioned, and that a rather strict regulatory framework must be established. In the amendments that you suggest, you are probably showing us ways to ensure that there are not too many loopholes, in order to avoid re-experiencing these situations in mediation.

This brings me to my first question, for Mr. Lemaire.

We discussed clearly defining the concept of noise. I have this wording in mind: that there be the least amount of noise possible; that this not affect people's health. In the legislation, there is the matter of taking into account operational needs. You propose to take into account the basic operational needs.

Given the proposed amendments, do you believe that the bill would pass the test of a legal challenge and that people will see results in the short term?

• (1640)

Mr. Alain Lemaire: Thank you, Mr. Chairman.

I believe that the bill is on the right track. There are a number of issues, but right now we have absolutely nothing. The day the bill comes into force, we will have a lever to ensure respect for quiet around the switching yard and that noise is regulated somewhat.

Here is the problem: currently CN is not responding to our requests and is completely ignoring us. The Agency has no authority. That is why we want to ensure that it has authority and that the act stipulates "least possible noise". Otherwise, the company will get away with saying that these activities are necessary for profitability and as in the past there are costs associated with that.

Indeed, there are costs associated with that. However, we must not forget that when someone causes pollution, they are responsible, they must accept that responsibility and control the pollution when it bothers the neighbours. That is not what CN is doing in our area right now. I understand that this may be the case across Canada, with other companies.

That is why we want the bill to be more specific and to confer the power to issue orders. In order to grant that power, the legislation needs to stipulate the words I mentioned earlier, "least possible noise". That way, we will be able to work and hear ourselves. There will also be some pressure on the company, the Agency will also have some leverage and the citizens will have some recourse.

Mr. Steven Blaney: Mr. Chair, I will be sharing my time with my colleague Ed Fast.

I have a short question for Mr. Picard.

You are saying that you would like the bill to also address train whistling. If we talk about the least possible noise, does this not also include the problem with train whistling, in your opinion?

Mr. François Picard: Yes. Besides, train whistles are heard almost 24 hours a day. Here is what we want to achieve with train whistling. In order to decrease this nuisance in the City of Québec — and this is likely true elsewhere — we want to introduce other measures such as grade crossings, fences, underground pedestrian crossings and so forth. The municipality pays 100 per cent of the costs of these measures. That was the thrust of our speech.

[*English*]

The Chair: You have one minute.

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

I just want to say thank you to all of you for coming.

Mr. Fassbender and Mr. Lowrie, I just want to let you know that Mr. Warawa was here listening to your presentations. Unfortunately he's on his way back to Vancouver. He'll be meeting with you tomorrow. He just wanted to request that you provide this committee with written copies of the presentations you've made, if that's all right with you.

Mr. Jim Lowrie: I'd be pleased to do so.

Mr. Ed Fast: All right, I have just one quick question for all of you. It's just a yes or no answer.

I heard a number of you suggest that perhaps the best way of addressing enforcement and the regulation and setting of noise levels would be for these powers to be delegated to the municipalities. Could you say in a one-word answer, yes or no, whether you would support that approach?

Mr. Jim Lowrie: From the City of New Westminster, I think that would be our preferred approach.

Mr. Ed Fast: Thank you.

And from Langley?

Mr. Colin Wright: From the township, yes, that would be a clear way of being able to have some order of control over the situation.

Mr. Ed Fast: And from the city?

Mr. Peter Fassbender: The City of Langley would agree with that.

Mr. Ed Fast: And the rest, yes or no?

The Chair: Thank you.

Yes or no, gentlemen?

[Translation]

Mr. François Picard: We believe, obviously, that with our regulations, everyone would be equal. We would be in favour of such a measure.

Mr. Jean-Pierre Bazinet: We would have to make sure that this power is constitutional, because railway companies come under federal jurisdiction. So we would have to ensure that the municipalities have this power and that, since these companies are subject to a federal charter, they also have basic federal obligations. This could apply to the municipalities, but we would have to ensure that this power does not become an empty shell.

• (1645)

[English]

Mr. Ed Fast: Thank you.

The Chair: Thank you.

Mr. McGuinty.

[Translation]

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

Good day, gentlemen.

[English]

Hello to those on the phone.

[Translation]

I want to review the brief that you presented. I would like to start with the brief sent by the City of Lévis. Forgive me, but I read it in English. I will try to translate my questions.

You have clearly identified the problem between “unreasonable” and ...

[English]

operational requirements

[Translation]

Mr. David McGuinty: What is the word in French?

An Hon. Member: Operational requirements.

Mr. David McGuinty: Thank you, in French it's called operational requirements.

On page 5 of the English version you state that this should be changed,

[English]

that what must be taken into account is the company's essential operational requirements.

[Translation]

Could you provide us with further details, in order to help us define what you mean by the word “essential”?

Mr. Jean-Pierre Bazinet: Here is how I see it. Although we have no accurate data, it would seem that air traffic operates within a more disciplined environment, with less disruption to the lives of the neighbouring communities.

Take Pierre-Elliott-Trudeau Airport, for example. People living near the airport complained about the noise. Accommodations were made, and all live in harmony. This type of regulation could be applied to other areas.

I find it interesting that, when I listen to the people from out West, they sound just like the people who live in Charny. I can relate to what they are saying; the noise that they describe is identical to what we hear in Charny. So the problem isn't a local one, nor is it unique to one area. It is common to all of Canada, and involves a single industry.

We understand the requirement of the just-in-time delivery system, as explained earlier. These operators have time constraints and, because they have a tight schedule, they must work around the clock.

We think that the industry should be able to adjust, as the airlines have done; flights arrive from all over the world, yet they manage to respect the schedules. But there are a number of things to consider before setting an exact decibel level.

Of course, noise-level standards are one option. Attitudes must also be factored in. Earlier, the Western delegation expressed some doubt about the workers' ability to judge how much noise they were making. Engines are left to idle for long periods of time and alarms sound when they are put into reverse. Employee attitudes aside, it is also important to maintain cordial relations with the neighbouring residents; this must be done through Transportation Agency regulations.

I have touched on a number of points. I'm not sure that it can be expressed in terms of decibel levels, but that is one of the components that should be considered.

Mr. David McGuinty: Now for my second question. Once again on page 5 of the English version, you quote the Union des municipalités du Québec which states that section 103(c) of the Canadian rail operating rules should be amended as follows:

[English]

“no part of a train or engine may be allowed to stand on any part of a public crossing at grade for a longer period than five minutes...”.

[Translation]

Take the situation in Langley B.C., where trains are often a few kilometres long. Or all of the traffic that flows through the Asia-Pacific gateway, and the sale of natural resources to China, India and Asia. Train traffic there is on the increase.

Do you think it would be feasible, in Canada, or should we change the railway access to Langley, for example? Should we not take a look at overpasses and underpasses rather than set a five minute limit? Is it a practical approach when our trains are carrying tonnes of our natural resources?

• (1650)

Mr. Jean-Pierre Bazinet: I am not familiar with the situation in Langley, Mr. McGuinty. However, can we really deprive the public of emergency, ambulance and fire services because a train is very long?

We have to proceed on a case-by-case basis. There may be urban planning considerations, or changes might have to be made to the transportation infrastructure, so that may happen. However, we must not forget that these people are entitled to essential services. We have to take a close look at this and understand that some trains are so long that emergency services cannot be provided.

[English]

Mr. David McGuinty: And I have one tiny little last question, Mr. Chairman.

Do we have any evidence at all of decibel levels from train disturbances or noise levels in this country? I see WHO guidelines; I see OECD guidelines; I see calls for changes. Do we have any actual measurements or evidence from Canadian situations where trains are causing obviously high noise levels? I've seen nothing in the briefs.

[Translation]

Mr. Jean-Pierre Bazinet: I mentioned in my presentation that the City of Lévis, in 2000, had commissioned a study on noise levels to be done by an engineering firm that specialized in this field.

The report contains data expressed in decibel levels, in urban areas as well as other measurements. We would be prepared to table this document.

[English]

The Chair: Go ahead, please, Mr. Picard.

[Translation]

Mr. François Picard: The WHO set a decibel level of 55 as a limit beyond which outside daytime noise could disturb normal activities. So, if an upward limit were to be set, for example, it could be 55 decibels. This is consistent with the OECD recommendation as well.

Mr. Robert Carrier (Alfred-Pellan, BQ): Good afternoon, I am happy to meet you and I am surprised by the quality of the presentation that was made by the two city representatives here today. The briefs that you have provided will go a long way in helping us to prepare amendments to this bill.

I would also like you to know that as soon as we have improved it, I would like to see this bill adopted. Passing this legislation is the only way to improve the situation that you have described, since the Transportation Agency seems unable to help you. I agree with my colleague Mario. We will work together to improve the bill.

As to your definition of noise, you say that “unreasonable noise” is not specific enough and you would prefer the expression “as little noise as possible”. However, Mr. Picard feels that it would be even better to add specific noise level standards expressed in decibels.

I am of the same opinion. What is done to reduce noise can always be a matter for interpretation, whereas standards would be much more explicit.

Could you elaborate on that and tell us how you feel about it?

Mr. François Picard: First, any concept of reasonable noise should be discarded. Second, as my colleagues as well as the people from the West have said, we would prefer the term “as little noise as possible”.

We took a look at what was being done in Europe, where rail transportation is light years ahead of ours. In England, particularly, noise is regulated according to decibel levels. Unfortunately, I don't have these documents with me, but I would suggest that you ask your researchers to take a look at what is being done in Europe, where a lot of good things are happening.

Mr. Robert Carrier: Could you provide the clerk with the information?

Mr. François Picard: We don't have the documents with us at this time, but with your permission, we can send them to you at a later date.

• (1655)

Mr. Robert Carrier: You may send them to the clerk. That will be fine.

In your report you provide a number of solutions to reduce railway noise at the source. I am pleased to see that you are aware of that. I know that there is a quieter locomotive that can be used in rail yards. I think it is called the Green Goat. These special locomotives operate more quietly when accelerating or decelerating. These solutions, if they are effective, will probably be introduced by the Canadian Transportation Agency.

However, are the municipality representatives aware of the fact that zoning can represent a source of conflict between the urban planners and the railways? When you allow a developer to build housing next to a railway track, you must not be surprised when the homeowners begin to complain.

With that mind, have you made any changes to your zoning bylaws, in order to deal with this problem at the source?

Mr. André Demers: Yes. In urban areas, there is also a shortage of space available for construction. Nevertheless, we certainly try to take into account existing constraints, but railway lines go through very large areas in our cities. As a result, a significant portion of the territory is affected regardless, even under current conditions. If rail activities increase exponentially, ultimately, shouldn't we push the neighbouring areas back, move away from certain areas, and create a buffer zone on both sides of the track? Then that would become problematic.

The most sustainable developed plan would see railway companies investing as much as they are able to generate from additional activities and investing in research and development to resolve the root cause of the noise problems, as many companies do for their own employees. Practically speaking, being in the vicinity of railway tracks is like sharing space with an operational industrial unit. So it would be normal for a railway company to take action. The Canadian Transportation Agency would be responsible for the rate of investment in that area. It would be normal for the railway company to invest in research and development to get to the root of the problem. Noise could be reduced considerably by reducing friction on the tracks and by improving locomotive equipment, as well as the use and management of this equipment.

[English]

The Chair: Thank you.

Monsieur Gourde.

[Translation]

Mr. Jacques Gourde (Lotbinière—Chutes-de-la-Chaudière, CPC): Thank you, Mr. Chairman.

I am happy to be at the committee this morning, because the Charny train station is in my riding and several constituents have spoken to me about the problem.

From the outset, I would like to congratulate the committee for dealing with this issue. You have a great deal of perseverance, you work hard, and that is to your credit.

My first question deals with an issue that we discussed a little earlier. How do you compare regulations for railway facilities with other facilities under federal jurisdiction, like airports? Mr. Bazinet, I know that you mentioned that briefly. Is there really a big difference between the two? Are there more deficiencies on the rail side?

Mr. Jean-Pierre Bazinet: In our area, we have a ship yard, an airport, and facilities that generate noise. We have been successful in reaching an agreement and negotiating with them. By setting up committees, citizens have successfully reached agreement and achieved a kind of social consensus so that the two can coexist, as the two must be able to coexist. The railway company, the ship yard or the airport generate lots of jobs and economic activity. As Mr. McGuinty stated earlier, the railway is important in the West. However, an activity, whether it is essential or not must not jeopardize the social balance and prevent people from sleeping at night.

To answer your question, there are indeed other companies that make noise. However, railway activities appear to be a problem, namely CN's activities. Earlier on, we alluded to just-in-time delivery. Since 1988, when deregulation occurred, we have really

seen an increase in railway activities. These activities extended to evenings, night, and weekends. That is when we began to see a lack of balance between the noise created and urban coexistence. Those are really the types of activities causing problems today.

• (1700)

Mr. Jacques Gourde: Do you think that having the Canadian Transportation Agency establish guidelines is enough, or do you think there should be regulations? Should we take a different route, or move towards regulations?

Mr. Jean-Pierre Bazinet: Given what has happened with the people of Charny, as Mr. Lemaire described earlier, we feel that regulations should be sufficiently restrictive to force corporations to comply with certain rules. After that, a case study could be done. Perhaps negotiations could be done locally. We believe that basic regulations are necessary, like the ones in other areas of activity, namely aviation.

Mr. Jacques Gourde: With the proposed amendments, do you think that this bill can improve living conditions for the people of Lévis, more specifically around the Charny train station?

Mr. Jean-Pierre Bazinet: If the Canadian Transportation Agency, which will probably have jurisdiction, is given enough authority, that will be an excellent start. In fact, there needs to be a legal framework, a regulatory framework so that people work together to establish the requirements and the objectives to be met.

For the time being, we are just paying lip service to it: the situation is being dragged out, so that ultimately, we never come up with a solution. Yes, we need a regulatory framework and some legal guidelines to enable us to reach a consensus.

Mr. Jacques Gourde: Thank you.

[English]

The Chair: Thank you.

It's Mr. Scott's turn, but he's agreed to hand it over to Mr. McGuinty or Mr. Bell. I'm not sure.

Mr. David McGuinty: It will be Mr. McGuinty. Mr. Scott's a perfect gentleman. Thank you very much.

Do we still have our guests on the telephone? Good. I'd just like to put the question again. I'm not sure if it was completely understood. Is there any evidence, beyond the engineering report from Dessau-Soprin, on whether those decibel levels have been measured in fact? Wouldn't it help all your cases if we were able to get some kind of national snapshot of where noise levels actually were, as opposed to what they ought to be in theory? Can anyone answer that? Do we have any collated material evidence to show what the decibel levels are across the country?

Mr. Jim Lowrie: I'm from the city of New Westminster. I do not believe we have existing evidence. I'm speaking perhaps out of ignorance. My predecessors, before my time, may very well have had that information; my sense, however, is that we do not. I think that is partially, as noted earlier, because railways are federally regulated, and there would be no real need to measure that because enforcement is not possible. So we will certainly check in our offices here, but at this point I do not believe we have such evidence.

Mr. David McGuinty: That would be very helpful, because I think in one of the briefs or in both briefs from the two cities in Quebec, there is a call for the applicability of municipal bylaws to a federally regulated railway. It would be helpful for us, I think, as committee members, to get a sense of whether there is any other evidence, other than this particular study in this particular city.

[*Translation*]

I think it was the City of Quebec that presented the idea of a national strategy for noise reduction. Are you suggesting that it be part of this bill, or that it should be considered outside this bill? It is an excellent idea, but would you like to see the inventory prepared, for example, after this bill? Do you have any additional details?

Mr. François Picard: We had two specific objectives: responding to the legal framework, in other words to the bill as such, in terms of unreasonable noise level; and emphasizing the importance of protecting public health and the quality of citizens' lives. That is our basic position.

Then, beyond the scope of the bill, we are advocating a longer-term comprehensive approach based on a national policy to reduce railway noise that would establish a direction, objectives, and strategies for intervention. So perhaps this national policy could include a comprehensive approach, once the regulations are very specific and a decision has been made with respect to noise and quality of life.

•(1705)

M. David McGuinty: Could this strategy be prepared by companies in cooperation, for example, with the Federation of Canadian Municipalities?

Mr. François Picard: We had indicated that the policy should instead be developed by the Government of Canada, in other words Environment Canada, Health Canada, perhaps—

Mr. David McGuinty: Transport Canada as well.

Mr. François Picard: Transport Canada of course. The UMQ, the Union des municipalités du Québec, could be called upon to participate. The railway companies could also be associated with the project, but I do not know if they should be too closely linked to it.

M. David McGuinty: Would it be possible to accomplish what you have outlined in the strategy without the cooperation of the companies? Of course, there are all kinds of confidential, commercial details, for example.

Mr. François Picard: A partnership is of course desirable, as is good cooperation between private companies and government.

[*English*]

The Chair: Thank you.

Mr. Bell, you have twenty seconds.

Mr. Don Bell: Thank you.

Just quickly, again on the issue of noise readings, with municipal experience on municipal bylaws, sometimes in western Canada you can use the term “nuisance” as opposed to a decibel level, because intermittent noise is hard to read with a noise meter. Sometimes it can be a nuisance, and I don't know if you've had any experience with that.

[*Translation*]

Mr. André Demers: May I interject on this topic?

As regards decibels, it is generally a measurement where the intensity of the noise varies over a given period of time, such as a day. And there will be an average level. That is often what happens—and this is the most bothersome noise for people—when impulse noise occurs. We have heard examples of this throughout Canada when, for example, railway companies are switching rail cars in the yard in the middle of the night. When the car is unhooked and it bumped into another, if the shock absorber at the other end has not been improved, impulse noise occurs, and that is a nuisance.

Now, when you measure noise over the course of the day, the decibel level may seem somewhat reasonable, but we see that there is nevertheless a nuisance. That is the kind of situation that can be eliminated thanks to better technology and better schedule management, mechanisms, motors, equipment, and locomotives.

[*English*]

The Chair: Thank you very much.

I have to advise the committee that our time for this meeting is up.

I do want to express my thanks to the City of Quebec, the City of Lévis, the City of New Westminster, the City of Langley, and the Township of Langley. Your comments have been duly recorded, and hopefully the committee will hear your recommendations and concerns and advise government of the same.

Witnesses: Thank you very much.

The Chair: We do have a little bit of committee business to deal with. Mr. Julian gave notice of a motion at the last meeting. Just for the information of the committee, Mr. Julian will introduce the motion. He is then going to excuse himself and Ms. Chow will present it to the committee. She's going to speak on the motion and then we'll move to debate and vote.

Mr. Julian.

Mr. Peter Julian: Thank you very much, Mr. Chair. I will move the motion and then turn things over to Ms. Chow, from Trinity—Spadina.

The notice of motion that we provided on Tuesday basically states to this committee that the Roger Tassé review of the Toronto Port Authority be made public and subject to a review at an upcoming meeting of the Standing Committee on Transport, Infrastructure and Communities. I move this motion, and you will recall that we discussed this issue at previous meetings.

I'll turn things over to Ms. Chow .

•(1710)

Ms. Olivia Chow (Trinity—Spadina, NDP): Thank you.

Mr. Chair, thank you for giving me this opportunity.

I urge you to adopt this motion, and if it's possible, I urge you to even amend it to say, "subject to a review and upcoming meetings prior to the end of October or the break week in November". Please allow me to tell you why.

Historically, the dealings of the Toronto Island Airport belonged to a harbour commission that has always belonged to the City of Toronto. Unfortunately, in 2001 the Canada Marine Act was amended and control of this airport was taken from the City of Toronto and given to Ottawa, against a lot of objections from the local municipality. If the mayor of Toronto and the entire city council were here, they would probably say they have difficulties with that.

Since then, there have been a lot of difficulties with this port authority. Of course, it's a federal agency at this point. As a result of a lot of controversy, a deal was signed by the previous government that was worth about \$35 million. It was not clear why that was signed. It connected with the building of a bridge that got cancelled. The bridge itself was only \$22 million, but the cancellation cost was \$35 million. As a result, the new minister then ordered the review, which was the Roger Tassé review.

The review has been finished. I believe it was given to the minister on Monday of this week. The minister, in the House of Commons yesterday, said he would make it public. He is reviewing it right now and he would want to discuss it, and perhaps there will be some action.

I think it's important for this committee to examine those kinds of actions and to look at other opportunities and for some input. I think that would be very helpful. It certainly would be greatly appreciated by the citizens of Toronto, because they have been wanting to get to the bottom of this deal and this whole transaction, and why this port authority was established in the first place.

If this committee can approve this motion and look into it, it would be greatly appreciated. After all, we are talking about transparency and accountability, which I believe is what every member of Parliament would be supportive of, I am sure.

Also, there's local control. I would think my Bloc friends want to make sure that something that belonged to the local municipality wouldn't be just ripped away. That's what happened in 2001, and maybe it should be returned.

So I urge the committee members to support this motion and approve it. If you could see to it that there would even be a timeline attached to it, that would be even better, because this is subject to a huge uproar in the city of Toronto.

And just to finish with a last point, this Toronto Port Authority recently launched a new ferry. On the ferry's first day of operation—its maiden journey, as you'd say—all the media in Toronto were brought on board and a big party was held to celebrate this ferry. On this first day that it sailed forth, a trip that should only take maybe seven minutes took half an hour, and the ferry spun around and crashed. It was actually quite humorous if you watched the television coverage of it. It was the top story in the local papers.

This port authority has been subject to a lot of concerns, so certainly it would be entertaining, and it would be wonderful if your committee could examine this review.

Thank you.

•(1715)

The Chair: Thank you, Ms. Chow.

Mr. Jean.

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

I read the motion today for the first time, but I accept that proper notice was given.

I wonder why we're having this discussion. The minister has already indicated he's going to table the report in the near future, and we have a very ambitious agenda in front of us. I would suggest that once the report itself is made public, which we understand is going to happen in the near future, if we then as a committee decide to review the report and make it a committee item, we do so, but until that time I see absolutely no reason to have this. There's not even a date in it for when the standing committee can look at this or for when we have to look at it.

We've already heard from the minister. He's going to make it public. Why would we need to have this at this time? We're not going to be getting it fitted in in the next couple of weeks, for certain, and I would suggest the minister's going to have that report made public well within that period of time.

The Chair: Mr. McGuinty.

Mr. David McGuinty: Thanks, Mr. Chairman.

I thank you for appearing, Ms. Chow. It's good to see you.

I agree that everyone at this table and everyone in the House is very much in favour of transparency and accountability. I was listening carefully. I was remembering that of course it's a very important local issue in Toronto, a very important provincial issue in Toronto, a very important federal issue in Toronto. But I'm struggling with what compels urgency here.

I was very concerned, as you were yesterday, until the minister stood up in the House of Commons—I have to take him at face value—and said he was going to release the report within a week, or maybe two weeks. I'm not sure what the transcript would read; I can't remember the detail. I thought I heard that in the French answer. So I'm not sure, is there something here that compels urgency that we're not getting, which we need to address?

The Chair: Ms. Chow.

Ms. Olivia Chow: In fact, there are several lawsuits going on right now. The Toronto Port Authority evicted Air Canada Jazz, and there's a new airline called Porter Airlines that is starting a flight Monday of this coming week. So in fact, Monday morning this coming week there will be a flight of this new airline.

There is a massive expansion of the island airport being planned, and a lot of the funding of this expansion of airlines coming into the island airport actually came from this \$35 million deal.

There is a huge controversy as to whether the Toronto waterfront should have a dramatic increase of airline traffic into the waterfront, in a place that is the heart of the financial district and has a lot of condominiums. There's the question of safety, the question of whether it would be financially viable, and of why taxpayers should continue to fund this whole enterprise.

The longer the whole port authority is shrouded in controversy and secrecy, the more the liabilities. If the federal government decides to turn this port authority back to the citizens of Toronto—back to the City of Toronto, for example—the longer the airlines operate the more liability it would incur and the more expensive it would be to deal with the whole situation.

So the faster it's discussed here, through having a discussion with the minister or having a discussion at this committee, the better it would be.

The Chair: Mr. McGuinty, go ahead.

Mr. David McGuinty: Thank you, Mr. Chair.

Thank you, Ms. Chow. This is very enlightening. Jazz was evicted, Porter's in, there are lawsuits outstanding, there's an increase in airline traffic, and you mentioned safety and financial viability. But I'm struggling with what compels the urgency. Flights have been going in and out of Toronto Island for 25 years. These lawsuits that are outstanding, I think, have been going on for two years.

• (1720)

Ms. Olivia Chow: No, Jazz was evicted very recently, and as a result of—

Mr. David McGuinty: Jazz was forcibly evicted from the island?

Ms. Olivia Chow: Yes.

Mr. David McGuinty: So it was forcibly evicted from the island airport? Or was its lease terminated or was...?

Ms. Olivia Chow: There is a dispute as to whether it was allowed. It has been flying from the island airport for many years. The questions of whether the port authority conducted a proper competitive tendering process to allow one airline versus the other airline to come in, or whether allowing just one airline, Porter Airlines, to operate out of it constitutes a monopoly are subject to a court debate.

The dealings of the port authority are subject to a lot of controversy. I believe Jazz have now taken the port authority and also Transport Canada, I think, to court. I'm not 100% sure, but certainly that lawsuit is quite recent.

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

[*Translation*]

M. Mario Laframboise: I do not disagree with the idea put forth by Mr. Julian and Ms. Chow. Here is my only problem: the minister said that he would make it public. It is just that. I agree with studying it. Once it is made public, let's study it. I would move an amendment that would say once it is been made public by the minister, we study it. I do not have a problem with that.

If that is not the case and Mr. Julian's intention is to force the minister to table it more quickly and he tables it by next week, why

adopt this motion right away? I am asking myself an existential question.

I recommend that Mr. Julian leave it on the agenda and that we deal with it next time, once the report has been made public. Then we will automatically invite at least Mr. Tassé, so that he can disclose the content of his report.

But I really do not know, I too am wondering about the urgency. In fact, the minister did say, unless I missed something, that he would make it public. That is what you were saying, Mr. Jean. Is it more complicated than that?

Go ahead.

[*English*]

The Chair: Yes, Mr. Jean.

Mr. Brian Jean: It's not more complicated than that. In fact, the minister did say he was going to make it public very shortly.

But once it's out, we're all going to have an opportunity to review the report. We understand that there are a lot of important issues here. We understand that there were some payments made by the previous government and some of those payments are questionable, or at least there are some contract violations, and there are so many lawsuits.

The reality is that it's before the courts. We can't comment on those, as a committee or as a government, but once it's out in the next couple of weeks, let's review it as individual people. I'm sure the NDP and Mr. Julian will know it forwards and backwards. Once that happens, if the motion comes back before the committee, then let's deal with it on that basis.

At this stage, however, we know what our agenda is over the next three or four weeks, and we're not going to be able to push this into the middle, and certainly not before Monday. There is not going to be anything done, and the committee is not going to come out with any recommendation before Monday even if we get it tabled before that time.

So although we understand some people in Toronto are very upset about this, and it's a very major issue and has been for many years, to be blunt, as Mr. McGuinty has said, why don't we wait for it to be tabled and take a look at it? At that time we can deal with it as a committee, because then we will actually know what the report contains. Right now we're speculating, and really we've got a very ambitious agenda. We've got a lot of legislation coming forward that is going to help a lot of other people in Canada as well.

So once it is tabled and once it's made public, which should be in the very near future, let's look at it then and see if we can do something about reviewing it and see whether or not it would be advantageous and constructive to do so.

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

Hon. Andy Scott (Fredericton, Lib.): Given the date of the notice of motion and given the date of the minister's comments, is it fair to assume that the notice was given before the minister made his comments?

Consequently, what this is about is that the notice, to some extent, became redundant. I don't mind the intervention, Ms. Chow, and I know how important this is. However, I think for the committee, now that the first piece of this motion has been satisfied, and since we know the report is going to be made public, we have to have the maturity and the responsibility to look at the report and make a determination as to whether this is what we would wish to do.

Bringing to the attention of everybody how important everything else is that we're doing is not meant to belittle the importance of this. I think we will make a better judgment once we've seen the report and can decide whether it's worthy of pushing something else aside.

• (1725)

The Chair: Ms. Chow.

Ms. Olivia Chow: Yes, may I ask a question? I heard "one week" thing. Certainly the minister didn't say that; there was no commitment of time, and there was a worry this could drag on for many months or many years. I certainly hope not. I don't think that would be the case. So would it be appropriate to have this dealt with in a week's time or two weeks' time, for example, and we would come back to see whether the report has been made public or not? I've heard a lot of discussion about its being one week, which was not what I heard, and I wasn't sure there was any timing involved. It is true it was written prior to the minister's statement.

The Chair: Mr. Scott.

Hon. Andy Scott: I don't think there's anything to preclude Mr. Julian from bringing back the same motion at some point when we feel the minister has not lived up to what he's suggested he's going to do. That's the appropriate action, I think. If we assume the worst, then we're going to be having ministers here all the time, because nobody will have anything to say.

Consequently, I suggest we give the minister the chance to do what he said he was going to do, and if he doesn't do it, I'll be the first to support Mr. Julian in saying, get him here.

The Chair: Would it be a fair comment to ask Mr. Julian, as the mover, and Ms. Chow to withdraw the motion for a period of two weeks until we see what the minister does? And then it can be presented back to this committee, if you're not satisfied with the results.

Ms. Chow.

Ms. Olivia Chow: As long as you don't mind, I will be back here in two weeks' time. I'll come to visit again.

The Chair: You'll always be welcome.

Fair enough?

(Motion allowed to stand)

Ms. Olivia Chow: Thanks very much.

The Chair: Are there any other comments? If not, this meeting is adjourned.

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