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Tuesday, October 24, 2006

• (1530)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon, everyone. The orders of the day are pursuant to the order of reference of Thursday, September 21, 2006, Bill C-11, An Act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts.

With us today we have Raynald Bélanger, Gary McNeil, and Doug Kelsey. It's my understanding that Mr. Kelsey will present on behalf of the three groups before us, but certainly the questioning and the answers can come from all involved.

Without further ado, we'll proceed and ask Mr. Kelsey to make his presentation.

Mr. Doug Kelsey (President and Chief Executive Director, West Coast Express): Thank you for allowing us the opportunity to appear jointly before you today.

With me is Mr. Gary McNeil, executive director of GO Transit in Toronto; and Mr. Raynald Bélanger, the vice-president of commuter trains for Agence métropolitaine de transport. I am Doug Kelsey, president and chief executive officer of West Coast Express and SkyTrain in Vancouver. Together we represent Canada's three largest commuter rail operations.

To provide you with some background, our combined operations carry more than 125 million rides per year and represent more than \$4 billion in combined public assets. The areas we represent serve approximately 30% of Canada's population. Canada's commuter rail authorities wish to make Canada's communities more livable.

As part of that, we believe we are an essential part of the solution to gridlock, greenhouse gases, and smog in Canada's urban centres. But to do more as governmental service providers, and to do more to help Canada meet its environmental goals, we require a long-term policy solution based on the principles of better and fairer urban corridor access and services for Canada's urban passenger rail authorities, at competitive rates, and based on reasonable contributions above the host railway's cost structure.

Our decision to make a joint submission to you today is the direct result of our shared interests, challenges, and points of view, as well as our dedication to serve the same ridership base as yours—the taxpaying public.

In our past submissions to the Canadian Transportation Act review commission and to this committee, we outlined the benefits of urban commuter rail service and voiced our concerns on a number of

serious issues affecting our operations. We are very pleased to see that these concerns have been reflected in Bill C-11, particularly the ability to gain access to the lines of federally regulated railways by means of the dispute resolution mechanism under proposed section 152.1 of the bill. Second is the ability to have the agency determine the amount to be paid to the host railway for such access under proposed section 152.2 of the bill, should commercial negotiations not prevail successfully. There's also the ability of urban transit authorities such as AMT, GO, and West Coast Express to purchase a railway line or corridor offered for sale at net salvage value under proposed section 145.

Under access for commuter rail organizations, proposed section 152.1 addresses a major concern experienced by commuter rail authorities—our inability to gain access to the lines of federally regulated railways under the Canadian Transportation Act as it now stands. Shippers who may feel they have inadequate service have recourse under the servicer provisions of the Canadian Transportation Act. Commuter rail authorities do not have that same protection because we don't currently have the right to access. Under the proposed section 152.1, if the service being provided to a commuter rail operator is inadequate due to the inability to gain access to the federally regulated railways line, that operator may apply to the agency for specific relief.

It's unfortunate that the environment in which commuter rail service providers operate can be highly impacted by host railways. We can face unreasonably high rates, restrictive covenant provisions, and in some cases controls over the actual service specifications of our rail operations, while at the same time not being properly credited for the extensive taxpayer-funded capital that commuter rail operations provide to the host railways.

These significant contributions benefit both the railways' asset bases and the movement of freight traffic. This has been an ongoing concern recognized recently by the government in two bills that have unfortunately died on the order paper, Bill C-26, and Bill C-44. The concerns have a long history.

Some of you actually may recall that an attempt to provide commuter rail operators with some legislative protection failed some 20 years ago, back in 1986, when Bill C-97 also died on the order table. It is our hope that the outcome will be different this time around and that we will be provided with the protection necessary to allow for future access, for future expansion, and for the viability of commuter rail operations in the metropolitan communities and regions that we serve. Without these protections, our ability to support the livability and mobility of our national and regional goals will be severely limited.

●(1535)

In the past, the railways have advocated setting costs for arrangements with commuter rail operators based on “supply-demand” pricing for commercial negotiations. This approach can have an adverse effect for industry, because there's often no other competition or, in most cases, what is termed no effective competition or true comparatives for similar types of service.

Commuter rail is a unique service, with supply driven by corridor, not price. The current rate structure offered to commuter rail operators reflects a clear example of pricing in an environment of no competition. The economies, in some instances, are so unfortunately unfavourable that, despite public demand for services, expansion may be financially prohibitive where the commercial negotiating environment allows for no equality or checks and balances that ensure a level playing field for establishing rates and services.

However, proposed section 152.2 of the bill would prevent such high rates from being charged. Specifically, proposed subsection 152.2(2) lays out a number of factors that should be considered by the agency in determining a rate for the use of railways, land, equipment, facilities, or services. Of particular assistance to commuter rail operators is proposed paragraph 152.2(2)(b), which stipulates that a railway company's cost of capital is to be determined by a rate that is set by the agency and applied to the important net book value of the assets to be used by the public passenger service provider, minus any amount paid by the commuter rail operator in respect of those assets.

The net book value of the asset is the original cost of the asset to the railway, less depreciation. This method of determination of the cost of capital reflects the real cost that the railway incurred to purchase the asset that is being used by the commuter rail operator.

It is only reasonable and fair that the prices being charged for such use reflect the actual cost paid for the asset. Higher costs incurred by the railway to replace assets can be passed on to the commuter rail operators once the asset has been purchased. The cost of upgrades is also a factor for consideration by the agency in proposed paragraph 152.2(2)(c). Hence, there is no need to use another valuation method such as what is referred to as replacement value. Being charged excessive prices for access to operating services and infrastructure places an excessive cost burden on the Canadian commuter rail industry and the taxpayers we all serve. We are confident that proposed changes to the act will address many of our concerns in relation to service and pricing in the future.

In terms of rail line transfer and discontinuance, clause 39 of Bill C-11 proposes a change to section 145 of the act by including urban transit authorities in the list of entities to whom a rail line must be

offered for sale at net salvage in the process to abandon a line. This change reflects the real possibility that a commuter rail service may be provided on a line that a railway company wants to abandon because the line is no longer used for freight traffic. Allowing an urban transit authority to purchase the line for net salvage value reflects the fact that commuter rail service is a beneficial public transportation service. It also reflects the reality, faced by many urban transit authorities, of tight operating budgets within which to provide the services we do provide.

In conclusion, we point out that the provisions of Bill C-11, when enacted, will not cause moneys to be spent from the federal treasury. The provisions of the bill contemplate the payment of fairer rates by commuter rail operators and reasonable contributions over the railway's costs. The only change to the system is that commuter rail authorities will have the right of access, a right that will level the playing field and create much-needed opportunities for commuter rail to benefit the livability of our urban centres, the economy and the environment, all for the greater good of the taxpayer and the numerous federal ministries that will benefit from the passage of this bill.

●(1540)

Mr. Chair, I thank you again for allowing us the opportunity to appear jointly before you today. This will conclude our formal remarks, and we'd be pleased to answer any questions that you may have.

The Chair: Thank you very much, Mr. Kelsey.

Mr. McGuinty, go ahead, please.

Mr. David McGuinty (Ottawa South, Lib.): Thank you very much, Mr. Chairman. I'll be sharing my time momentarily with Mr. Bell.

Thank you, Mr. Bélanger and the other gentlemen, for coming in.

Do any of your organizations now receive federal government support of any kind, or are you anticipating receiving federal government support?

Mr. Gary McNeil (Managing Director and Chief Executive Director, GO Transit): Right now GO Transit receives money from the Canada strategic infrastructure fund. We have approximately \$385 million, which the federal government has brought forward for infrastructure improvements, primarily on CN Rail corridors and to some extent on CP corridors, in the Greater Toronto Area. We have that under way right now.

Mr. David McGuinty: So is that project for both TTC and GO Transit, or is it strictly for GO?

Mr. Gary McNeil: No, this is 100% for GO Transit. It's for commuter rail expansion, for track and rail infrastructure.

Mr. David McGuinty: And was the infrastructure agreement, in place now with the federal government, signed?

Mr. Gary McNeil: Yes, it's signed.

Mr. David McGuinty: There's a contribution agreement between the federal government and—

Mr. Gary McNeil: It's an agreement among the federal, provincial, and municipal governments.

Mr. David McGuinty: The contribution agreement is between the federal government and which other party or which other parties?

Mr. Gary McNeil: The Province of Ontario and all of the municipalities of the Greater Toronto Area are contributors to it.

Mr. David McGuinty: Right, okay. Has the President of the Treasury Board informed you that he's contemplating holding back that support, pending the outcome of municipal elections in Ontario?

Mr. Gary McNeil: No.

Mr. David McGuinty: Are you aware of that?

Mr. Gary McNeil: No.

Mr. David McGuinty: How would you react to that, if that were to happen?

Mr. Gary McNeil: I would look to my provincial counterparts to deal with the federal government on that. As an agency, we would respect the desires of our provincial government. We would still continue with the program. The infrastructure is so badly needed that, if someone pulls out, it's just going to lengthen the duration of that implementation, but it still has to go ahead.

● (1545)

Mr. David McGuinty: Is that contract sole-sourced?

Mr. Gary McNeil: No, you're confusing it, I think, with the Bombardier contract with the TTC. That's separate. That's with the Toronto Transit Commission.

Mr. David McGuinty: How is your contract being administered?

Mr. Gary McNeil: Under our contract right now, there's a total of 12 projects. They're actual capital infrastructure projects. They're all being competitively tendered. CN is building the track and the rail infrastructure, and GO Transit is managing the bridge structures that are being undertaken.

Mr. David McGuinty: How long did it take to negotiate this contribution agreement with the federal government?

Mr. Gary McNeil: It took approximately three years.

Mr. David McGuinty: Has it been signed?

Mr. Gary McNeil: It's been signed. It's been active for about three years now.

Mr. David McGuinty: So the contracts with your suppliers and consortium, and so on, are they actually in place?

Mr. Gary McNeil: Yes, they are.

Mr. David McGuinty: Has a spade been put in the ground?

Mr. Gary McNeil: Yes. We're probably about 50% through the overall program.

Mr. David McGuinty: Okay. So when you heard about the involvement of the President of the Treasury Board in a particular infrastructure agreement here in this city, did it surprise you?

Mr. Gary McNeil: It doesn't affect us, really, no.

The Chair: I don't think that's a relevant question. I hate to restrict questions of witnesses, but I think that is a different issue.

Mr. David McGuinty: Well, it is, Mr. Chairman, but I think it speaks to whether or not this bill ought to be amended in one way or another to look at this whole question of...because what's gone on here is that there's been a degree of involvement by the federal government in municipal decision-making, which may have to be protected against in Bill C-11. That's why I'm raising the question.

The Chair: I think, though, that you're asking Mr. McNeil to speculate, and I don't think that's necessarily what he's here for. He's here to answer questions currently—

Mr. Gary McNeil: I can honestly say that in the case of our infrastructure program, we've had 100% support from the federal government and the provincial government and the municipal governments, really, in moving this forward. It's much-needed infrastructure that's being strongly supported by all agencies.

Mr. David McGuinty: Absolutely. So in this case there was no value-for-money audit being imposed upon you, nor were you told something along the lines that you'd have to revisit your contract pending the outcome of a municipal election campaign, for example?

Mr. Gary McNeil: No, as part of our request for the funding, we put in a fairly strong business case for the program through Transport Canada, which was endorsed by Transport Canada and the federal government.

Mr. David McGuinty: Was your procurement system an international one?

Mr. Gary McNeil: Yes.

Mr. David McGuinty: So it was managed by a third party?

Mr. Gary McNeil: It's managed by our internal organization, but we go out for competitive prices on all of our contracts.

Mr. David McGuinty: Right. Thank you very much.

Mr. Bell, go ahead.

The Chair: Mr. Bell, you have two and a half minutes.

Mr. David McGuinty: Sorry, Mr. Kelsey, did you have something to say?

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

Mr. Doug Kelsey: The only thing I might add with respect to Bill C-11, is that if you're talking about federal funding, currently in Vancouver most of the funding—and the relationship would come, of course, from senior levels of government—does or does not get allocated depending on the viability, in this case, of a commuter rail project. So if this were to be enacted in legislation, any contribution by the federal government would benefit, so it's not going to railway margins; it's going to minimize the capital needed and maximize the service output. That's the intent of the framework here, regardless of which level of government—provincial, municipal, federal—would benefit from a better value relationship.

Mr. David McGuinty: Let me clarify, Mr. Chairman.

So the contribution going into Vancouver, then, has not been subject to the outcome of a municipal election campaign. Is that right?

Mr. Doug Kelsey: It's not related in any way.

Mr. David McGuinty: All right. Thank you very much.

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Mr. Chair, I'm going to go back to clause 44 of the bill, which amends the bill by adding section 152.1. I correctly understood that this amendment will facilitate negotiations with the railway companies, and you have the full support of the Bloc québécois in that respect.

Mr. Bélanger, I would like you to give me some examples so that we can better understand this amendment. When we meet with the railways, they tell us that negotiations are going very well and that everyone is always in good faith. However, the amendment will probably add some elements.

Mr. Raynald Bélanger (Vice-President, Trains, Agence métropolitaine de transport): We have to be careful when we cite examples because we have confidential contracts. So I can't cite figures because that would lead to a breach of contract.

• (1550)

Mr. Mario Laframboise: All right.

Mr. Raynald Bélanger: So the context is a difficult one. For example, when the draft revision of the act was done, the arrangement we had with Transport Canada was that CN would allow the department to have access to the contracts so that it could examine them and form an opinion about them.

However, perhaps I can give you some examples of new projects, regarding railway infrastructure costs, for example. Those are examples of operating costs because the operating contracts are technically confidential.

With respect to railway investments, I also have to be careful because that could also be interpreted as being confidential, but the project is currently under way.

I can give you the example of the construction of a two-mile section of railway line. We have examples that confirm that, under the worst-case scenario, that could cost between \$2.5 million and \$3 million, and we estimate it will cost \$6 million.

As you can see, it's difficult. We don't have access to the details; we're operating in that dynamic. Whether it be for a \$5 investment or a \$10 million investment, you have to fight the same fight every time in order to try to find reasons to justify the cost, particularly when you build on a railway right of way.

Mr. Mario Laframboise: So that means you were forced to agree, whereas now mediation will...

Mr. Raynald Bélanger: At one point, the three of us decided — we're called the three amigos — that was enough. We met and we defended ourselves, particularly since the review of the act was under way. We took that opportunity to have a debate. We made

similar submissions to the committee reviewing the act, and we were heard; that, moreover, is reflected here. That's why we're continuing our efforts in that direction. We think this is an opportunity to establish a base where there will be an arbitrator and minimum ground rules. In that way, we'll be able to make good progress with the railways in the next few years. It's currently an open playing field. So each party is trying to beat the other, in a way, which ultimately isn't conducive to very healthy negotiations or dealings.

Mr. Mario Laframboise: What the industry tells us is ultimately that there will never be any negotiations and that the board will always be forced to decide. I don't think that will be the case because there are a number of criteria.

I'd like to hear what you have to say on the subject.

Mr. Raynald Bélanger: Freight clients are always at the agency trying to correct matters. That forces everyone to be reasonable at the outset. To some degree, demands are reasonable, so no one is interested in repeatedly going to the agency because it's a very laborious process that demands a lot of time. No one has any interest in appearing before the agency.

However, we think there may be exceptional cases where principles will have to be debated. At that point, we'll go ahead, but that won't be the rule. Things will settle down; there will be a healthier climate. Once people know that a certain type of relationship has been established, they respect each other more. However, when you know that it's an open playing field, there's no respect, they don't trust the other party. That can become mutual.

Mr. Mario Laframboise: I'm taking the liberty of going back to clause 39 because it adds an element in the case of reassignments of railway lines. When a railway decides to reassign railway lines, you become a player on the chessboard.

I spoke with Transport Canada representatives. Have there been times when you would have liked railway lines to be abandoned and to have discussions on the subject because the railway companies were not using them, but had nevertheless decided to keep them? I know Transport Canada told us that this bill did not touch on that aspect, but have there been situations in which you would have liked to intervene, cases in which, in certain respects, the companies didn't show any interest in railway transportation, but perhaps only wanted to increase the value of an abandoned line?

Mr. Raynald Bélanger: There are obviously those kinds of examples. The line between Dorion and Rigaud, where freight hasn't been transported for a number of years now, is an example of a situation in which the railway is holding on to the property. We're currently negotiating with the company to buy it because it should be rebuilt. Now, of course, it's worth a lot of money.

Mr. Mario Laframboise: That's what we're told. Perhaps we would have liked to be able to force them to negotiate, but we'll see what we can do with this bill.

Mr. Raynald Bélanger: First, they have to declare that the line has been abandoned. There will be a similar case in Quebec, between Marieville and Saint-Hubert, where the railway has officially declared the line abandoned. At that point, the company looks at all the local lines. If no one wants it, it offers it to the Government of Quebec. If the government doesn't want it, it offers it to the municipalities. But we aren't included. I think we're ranked after the government, in second.

Mr. Mario Laframboise: Does that suit you?

Mr. Raynald Bélanger: Yes.

Mr. Mario Laframboise: That's fine.

Do I have any time left, Mr. Chair?

[English]

The Chair: You have 40 seconds.

[Translation]

Mr. Mario Laframboise: I want to take the opportunity, Mr. Bélanger, to confirm that you are satisfied with the content of the bill as it stands. Perhaps you could make a final comment on the subject.

Mr. Raynald Bélanger: [Inaudible - Editor].

Mr. Mario Laframboise: This is a big step for you. Thank you.

• (1555)

[English]

The Chair: Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): *Merci beaucoup, monsieur le président.*

You've been very eloquent, Monsieur Bélanger, Mr. Kelsey, and Mr. McNeil, in saying that essentially you don't see any difficulties with the bill. But you also mentioned in your presentation, Mr. Kelsey, that this has been, in a sense, a reissue or a re-editing of previous bills that have not made it to royal assent.

So I'd like each of you to respond very specifically as to what would happen if the House falls before this bill is adopted, and we're back to square one? Particularly with the issue of mediating, but also with the issue of rail line discontinuance, what would that mean for each of these transit authorities in terms of your plans over the next couple of years if you're having to come back again in two or three years on the same issue?

Mr. Gary McNeil: We have a couple of specific instances. In the case for GO Transit, we have gone through a process with the railways to acquire some railway lines. We own, actually, approximately 30% of the rail corridors that we now operate on.

For us, if the act didn't go through and a rail corridor came up for abandonment, we would pay the monopolistic rate that the railway wanted to charge for the land, and the public sector would pay accordingly—that amount of money. This is too critical an infrastructure to allow it to be abandoned. That's the approach that GO Transit has taken, that if the railways charge an arm and a leg, then we will have to pay an arm and a leg for it, because they have us over a barrel. We really have no choice.

In the case of service, though, we have a situation where CP Rail charges us such a high rate on the Milton rail corridor that we refuse to run any more trains. It's as simple as that. At the rate they are charging, we are saying we cannot afford to run any more trains.

Mr. Peter Julian: You've been running them up until now?

Mr. Gary McNeil: We're running them now, but we need to run more. But at the rate they are charging us we cannot afford to run any more. We are basically restricting our ability to put more services out, because we don't have an appeal mechanism to go back and say we need this rate adjusted.

That's really what the bill does. It gives us an ability to go to a third party that is independent, to be able to look at the rate that's being charged and say, is this fair and reasonable or isn't it fair and reasonable? Now we go to the railways, and the railways just say take it or leave it, and we have no choice.

Mr. Peter Julian: Do you have any estimate of what the financial difference would be over the course of a normal year, for GO Transit, for example?

Mr. Gary McNeil: I think, for us, it sets a bellwether test. If all of a sudden they say that in order to run another train you're going to be charged 50% more, then the next time we come to negotiations every single train is going to be 50% more. So for us, on the operating side we'd probably be looking at an additional \$5 million a year, in that order of magnitude, in our operating costs. And typically, we would end up having to pass that on to our customers.

Mr. Doug Kelsey: The first thing is, if it did not happen, I think we'd all be extremely disappointed, to say the least, having spent literally years trying to get this through. In the case of West Coast Express, there would be no expansion considered when our number one complaint from our customers is they want more service.

The timing is also very important because these are not short-term projects. You have to work on these literally for years in the planning stage. The business cycle to actually put a new service in can take a lot of time, particularly with the capital. We also have to compete internally for the value of what we do. If it does not happen, our cost structure will be far higher than what potentially could be considered...to perhaps not even consider expansion.

In our case, if you look at abandonment, you look at costs. In the case of the Arbutus corridor, I think the railway was looking for \$100 million. I think it was well profiled across the country, and it's a very strategic corridor. Part of this is also the strategy of long-term planning and protecting these corridors, and making sure that urban transit authorities get to put their oar in the water, if you will, about commitments and the long-term plans. If it's still unknown and the rules of the game are not known, they can get lost. We saw that with the Arbutus corridor case, which ultimately ended in the Supreme Court of this country.

You could be looking at somewhere between a difference of what a railway might see on Arbutus corridor, of \$100 million, which I think was the advertised price...whereas somebody else might see half of that. The debt servicing on that is about \$5 million a year just for the capital portion, let alone the operating cost structure. As other people look at other corridors—ultimately, in this case, the Canada line was put down—those get lost in the comparative, because people elect to move on in their conversation.

Part of this legislation will cost us in operating. I would estimate even some of our track rates, as our contracts expire, could go down as much as 80% plus, which is extremely significant in what our operating cost and our viability will start to look like. What's really important here is that the railways still make a reasonable return. It's critical they do, because if not, capital dries up and moves elsewhere. They have to be protected so that there's a reasonable return.

I think the challenge is, what is reasonable? Without checks and balances through legislation such as this, then you have to negotiate with a monopoly. Can there be negotiation with a monopoly? Yes, but it's defining what is reasonable in negotiations. If you look at the average contribution of a railway in this country, they're making something less than 30%. We are in the three to four digits in some cases, historically. There's a significant impact by not putting this in place quickly so we can get on with our long-term planning to serve the customer.

• (1600)

Mr. Peter Julian: Monsieur Bélanger.

Mr. Raynald Bélanger: Again, I have to be careful with the confidentiality of the contract, but right now for the usage of their plant we talk about a net book value. Now, depending on each contract, it's something between net book value and replacement value, except in Doug's case.

I think it's more than replacement value, from what you say.

I think it's written on the wall that they want to go from net book value to replacement value. If this happens, we're dead. It's as simple as that.

[Translation]

Mr. Peter Julian: You also talked about taking the line to Marieville. That'll be another...

[English]

Mr. Raynald Bélanger: In our case, timing wise, I have to be honest, this is not critical to us now. If the bill is approved next spring, it won't change.... We don't have a plan to take this trackage right now. It's probably more important for GO than it is for us. I can wait one more summer for this article.

For the other ones, we cannot wait. We now have a major issue on our existing lines—a major issue coming up with the new Repentigny line, which the Prime Minister announced, and it is a project in the order of \$300 million. We are in the midst of it right now. So any delays would certainly postpone coming to agreement with the railway. You can't imagine what we can argue about sometimes.

The Chair: Mr. Fast.

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

Thank you to all of you for coming.

My questions are going to be directed to Mr. Kelsey.

West Coast Express is very familiar to me, as it's right across the river from my riding. It also had some controversy when it was first started, and I'd like to address that a little. I have a couple of brief questions to which I would elicit brief answers, if you may.

First of all, how long has West Coast Express operated?

Mr. Doug Kelsey: Ten years.

Mr. Ed Fast: Whose track do you use?

Mr. Doug Kelsey: We use Canadian Pacific's track.

Mr. Ed Fast: When does that contract expire, or are you at liberty to say?

Mr. Doug Kelsey: No, I'm able to discuss that. It expires in 2015, but it has an option to renew for another 21 years if we elect to exercise it, which we won't.

• (1605)

Mr. Ed Fast: Is it an option to renew at current rates?

Mr. Doug Kelsey: Correct.

Mr. Ed Fast: You're saying you wouldn't exercise that option if this legislation goes through, I assume.

Mr. Doug Kelsey: Correct.

Mr. Ed Fast: I sense that there is a will at this table to move this proposed legislation through expeditiously. It is the previous government's legislation for the most part, and I sense that there is a will to get this done, hopefully before the next election.

In terms of cost, what's your current cost per rider? Mr. Bélanger had mentioned that West Coast Express would have been significantly higher than replacement cost. Is that correct?

Mr. Doug Kelsey: Yes, if you use that calculation. If we look at operating cost recovery, I took over about seven years ago, and in fairness to the railway, those were costs that we had to address internally, frankly.

I come from the private sector. If I look at it from a business perspective, it has about \$150 million in assets, with an expense budget of over \$14 million a year, and we're running it with only eleven people. I'd stack that up anywhere in the private sector. Our operating cost recovery has been taken from 33.5% seven years ago to what we have this year, when we'll probably hit about a 76% operating cost recovery.

Mr. Ed Fast: But your cost per ride—

Mr. Doug Kelsey: For cost per ride, you'd be looking at probably just over \$3 right now. It was upwards of \$15, but it has come down significantly.

Mr. Ed Fast: It was \$15 at one time. I do remember that.

Could you comment on the process you went through originally when you negotiated with CP? This proposed legislation obviously wasn't in place. There was significant controversy over the fact that CP essentially held the taxpayers and the residents of the Lower Mainland and Fraser Valley up for ransom. Could you give us some insight about the struggles you went through and how this proposed legislation is going to address that issue?

Mr. Doug Kelsey: I'll try to be as brief as I can on a multi-year journey.

I used to work at Rocky Mountain Railtours as vice-president of operations. Having negotiated track rate contracts with VIA Rail, CN, and CP, I had seen some agreements before. Without getting into any details, when I first arrived it seemed just excessively high. I had limited experience in it, frankly.

Our contracting is very important, but what contracts are we talking about? The first one was a crewing agreement, so it expired in the first five years. We renewed it. I would applaud Canadian Pacific for being very responsible. We got some significant reductions out of it, and we signed up that contract. It made sense, and it was reasonable for both parties.

In the case of the operating of the track rate agreement, it was very evident to me that it was excessive in terms of rates. If you used a typical long-run variable costing type of calculation, which is a fairly standard type of calculation, you were looking at a four-digit type of long-run variable cost or margin of contribution. The rates were extremely high. But if you compare them to the same type of calculation, using the same methodology, for other types of what the railways' average contribution is—as I said, they're less than 30%—using the same methodology, I got 30%, with something that has quite a number of digits added on to it.

As for the process we went through, we really tried to negotiate first, on multiple occasions. In fairness to the railway, there was a 20-year agreement in place, so why would they want to make the change? What I ultimately had to do was work to create the willingness not to go back and be retroactive, because that's not appropriate, but to correct a pricing change, as most people who have been in business have had to make pricing changes.

Pricing changes are not uncommon in business on a regular basis if something's out of whack. I have done them. I used to work in a multinational organization, and they're very common. You don't have to change the contract, you just change what is called the price sheet at the back.

So over quite a long period of time, I attempted to do it through an appropriate commercial negotiation, if that could happen. Of course it couldn't happen, so I then elected to go to the Greater Vancouver Regional District board of directors in camera and the TransLink board of directors in camera. I reviewed this with them all. It was a very emotional meeting, frankly, and there was great anger once they saw what the real economics looked like. I wasn't able to share it with anybody, because that was actually one of the challenges.

I was even requested to do an editorial board review with *The Vancouver Sun* and *The Province*. I couldn't tell them anything, let alone the Minister of Transport at the time, Minister Collette, because it had confidentiality attached to it.

So I basically met with every mayor in the whole Lower Mainland, and basically every mayor and every regional authority signed up support for trying to make a correction to this. It was exhaustive and it was challenging. Each step along the way, I communicated to the railway in question what I was going to do, in hopes that I wouldn't have to do it. I proactively communicated, saying I didn't want to do this but was going to do it if we couldn't get together.

Ultimately it came down to excessive public pressure, and it was tied into some other things strategically. At the time, I thought we had a very unique, never to happen again window, with the sale of BC Rail that was going to go on, along with some other interests that they had beyond, frankly, a relatively small commuter rail operation. I had to strategically tie in to all of those leverage points.

Ultimately it ended up with the chief executive officer and president of CP Rail having to come in, and I applaud him. Rob Ritchie, who is now retired, deserves a tremendous amount of credit for starting to put a dent into getting to the right thing. Are we there today, where we need to be? Absolutely not, but I do applaud the CEO for making an appropriate acknowledgement.

● (1610)

Mr. Ed Fast: This legislation will address that kind of problem.

Mr. Doug Kelsey: Absolutely, and the goal is to create checks and balances so that we don't have to use legislation. There's a new definition of what commercial terms really mean in a balanced playing field.

The Chair: Mr. Bell.

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

Welcome, gentlemen.

I will follow more or less along Mr. Fast's questions. I was on the GVRD board and TransLink when this issue came up, and I can remember the angst and the anger that we felt at knowing what we understood were the comparative rates between different areas in Canada that the same rail line was charging for passenger rail or comparable service. We felt we were paying an inordinately high amount for this in the Lower Mainland of British Columbia.

As I understand the bill, I gather from your comments that you focused on the issue of assets and the valuation. In terms of the process for adjudication of a dispute, do you believe this would actually address...? What it provides for now is, first of all, publicity of future contracts and application to current contracts if the parties agree that the information can be released.

Do you believe there will be any blockage? I don't presume West Coast Express is going to object to the information being released. From your knowledge, do you believe the railway will oppose it being released?

Mr. Doug Kelsey: In the case of West Coast Express, the existing contract was released. It went to the British Columbia Supreme Court, and a ruling was made that it was to be released to the public. From a West Coast Express perspective, I think it's an excellent check and balance on me as the CEO, personally, that I'm doing appropriate business deals on behalf of the taxpayer. That includes expansion and such that has to stand up to scrutiny.

Also, under the freedom of information act—each province and federal jurisdiction has slightly different language—you can FOI, if you will, how much a bus costs, how much uniforms and fuel cost. Yet I found it ironic, frankly, that you couldn't find out how much a multi-million dollar rail deal was.

In our case—and I think this actually was debated as part of the Canadian Transportation Act review panel, where CN and CP were present—CN indicated they would have no objection to it going forward.

Mr. Don Bell: It was CP, though, that had your contracts for the line.

Mr. Doug Kelsey: In West Coast Express's case, yes, it was CP.

Mr. Don Bell: The provision now provides that, if there isn't an agreement, then it can go to the CTA for resolution, I presume.

Mr. Doug Kelsey: Correct, but only after we attempt good commercial negotiations first. We have to negotiate commercially. If we are unable to do that, then that ability exists. I think that's very appropriate.

Mr. Don Bell: Do I understand then that generally you're supporting this bill? You've had consultation with Transport Canada on the bill, have you?

Mr. Doug Kelsey: Frankly, Transport Canada has been just excellent in our consultation with them on this bill. We are supportive.

Mr. Don Bell: That's good to hear.

In terms of the transparency issue, you're not concerned about the release of commercially sensitive information that would come out of this?

Mr. Doug Kelsey: If I could use the specific example of British Columbia, in some legislation there is “supplied” versus “negotiated”. If information is supplied about specific things that are damaging or proprietary to an individual, whether it be a railway... those things are able to be removed from the main information that's provided. I'll give you an example of a unique diagram that may have security implications pertaining to a railway. I would absolutely support that this not be provided to those who might make a request. But in general commercial terms, I would personally support those terms....

Mr. Don Bell: You've got your costs down. Are you having problems getting additional trackage time?

I know there's the conflict, obviously, between the efficient operation of the railroad for commercial purposes and the insertion of the passenger rail within that time. The railway can't always schedule.... I mean, we have ships in the harbour costing hundreds of thousands of dollars a day just to sit there. So there's the commercial viability of getting the goods both to and from the ports into Canada and the U.S., and that's balanced against the needs to provide, in particular, peak-time commuter rail.

• (1615)

Mr. Doug Kelsey: That's a very good question, and I probably have two comments.

One is that we are very much interested in the goods and passenger movement solution—for all our respective regions. It's

how you balance both, not that one is more important than the other. If we can't get the people to work on the commercial movement it doesn't help a lot, and vice versa for the goods movement.

Have we negotiated? The answer was no. As I said previously, West Coast Express will not expand until such time as we see this legislation. We have not even entertained conversation with the railway, because we know what the discussion will look like. Once we have this tool, we will then start what we hope is a new definition of commercial relationships, with more checks and balances.

To the second part of the question in terms of how you balance goods movement on a track that's perceived to be busy—I use the word “perceived”—in the case of West Coast Express, I think this is where this legislation is really crucial. West Coast Express and, I'm sure, GO and AMT have all brought significant capital to the table. That benefits the goods movement beyond when we don't even run. For example, in West Coast Express's case, I actually retained the ex-CEO for BC Rail to give me some advice about our Mission-to-Vancouver corridor. He's also the ex-general manager for Canadian Pacific Railway who was actually involved in the start-up of West Coast Express. So I had a pretty good idea of what our circumstances would look like.

We found, with the \$64 million of upgrades, putting in centralized train control systems—we double-tracked a significant portion of it and increased a lot of crossings, which brings a lot of very important strategic flexibility—in fact, we actually brought more capacity over a seven-day period than we consume. That benefits the goods movement. We don't run on the weekends. We'll do freight railways, and the goods movement gets the benefit from that. We only use one track; most of it is two tracks. Goods movement gets the benefit. When you put in centralized train control, you fundamentally get a step change in capacity versus a manual type of train movement. Just the capital alone brought us capacity far beyond what we consumed. That would be allowed to be contemplated in the future as part of this legislation.

The Chair: Thank you.

Monsieur Carrier, go ahead, please.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you for being here with our committee. I'd like to add to the answers Mr. Bélanger provided earlier, in view of the fact that these facilities, particularly in the Montreal region, are of great concern to us.

As regards sidings, which the bill addresses in clause 42, or proposed section 146.2, it seems to me this is quite weak on the matter of making lines available. It states that “a railway company shall prepare and keep up to date a list of its sidings and spurs that it plans to dismantle.”

You contended earlier that you had even identified one railway line that could be of use to you, but that is not on the list of available lines. I'd like to hear you say more on the subject.

I would also like you to make me a recommendation as to what we could add, that the railway company should determine the availability of certain lines. Even if they aren't to be entirely dismantled, the company could keep an up-to-date list of available lines.

That would be important, if we want to think about development. I'll leave you with that.

Mr. Raynald Bélanger: The idea is to determine how the companies could be forced to make them available, which isn't a simple or easy matter. They can always argue that a potential mining project somewhere will be developed in 30 years.

To retain something, they have all the tricks of the trade and all the arguments. How could that be imposed on them? The AMT definitely couldn't do it; the Canadian Transportation Agency could look into it. We could make a request to determine whether the railway company is actually abusing the situation by not wanting to make a railway line available to us.

We didn't dare go that far when we reviewed the act. We thought that, as with anything, if we asked for too much, we'd lose everything we had.

Perhaps we should view this more as a matter of stages over time. There will definitely be another review of the act in five years. There will be another one five years later. Perhaps we can be more particular at that time, but, for the moment, we haven't felt the need to go further.

• (1620)

Mr. Robert Carrier: However, you think it's possible to turn to the agency so that you can use a line temporarily or during part of the day, even if the line isn't dismantled?

Mr. Raynald Bélanger: We could do it at that point, but if the agency doesn't have the authority under the act, it can only try to make the companies understand that, but they can get around it. As I said, that will happen at a future stage.

Mr. Robert Carrier: I wanted to ask you about the clause concerning the noise caused by the railways. I wanted to know whether these are clauses of the bill that can affect you in some way. It seems to me we've previously heard complaints from citizens living near your commuter train services.

Do you think this clause could affect you?

Mr. Raynald Bélanger: In fact, we have to be consistent. The bill gives citizens an arbitrator, which is the Canadian Transportation Agency. As regards noise, the Canadian Transportation Agency is now responsible for deciding these matters.

We can deal with that and agree with people to find solutions. Moreover, I can give you a host of examples on this subject. This kind of disturbance mainly arises when you introduce a new service.

In overall terms, passenger trains are much less noisy than freight trains or than cars moving around switching yards. When a two-mile long freight train passes by, it generally makes a lot of noise.

With regard to our railway operations, we have locomotives that are not very noisy. These are trains that have 10 cars and therefore pass by quickly. The train passes a level crossing in 10 seconds, so that you don't hear it any more.

So we realize that, with time, people learn to live with the noise. Often, when we establish measures, we realize that the environment produces more decibels than the train. We see that often, particularly in the Montreal region, where there are a lot of highways. People are used to the ambient noise of highways. When we measure sound or noise levels, we realize that the highway often makes more noise than we do.

Mr. Robert Carrier: I have another brief question. Earlier you talked about negotiations on costs which you've already started with the railways. You seemed optimistic: you always reach good agreements, since people want to agree.

However, the bill clearly states that it's the net book value of assets that will be considered. Based on the reaction we're hearing from the railway companies, they don't agree with those valuations. Consequently, will this bill, in any case, help you even more to reach agreements?

Mr. Raynald Bélanger: Yes, because, as I explained, we currently still have the net book value; in some cases, it's higher.

As I explained earlier — I think that's in the writing on the wall — their objective is to arrive at replacement value, and if one day we're dealing with replacement value, it will be over. Imagine the replacement value of Victoria Bridge, for example.

Mr. Robert Carrier: So it's very good for you that the act applies to that.

Mr. Raynald Bélanger: We have to stop fighting over that subject. You have no idea of the energy that's spent on that point. It's astounding.

The Chair: Mr. Blaney.

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

Welcome, everyone.

I was a bit distracted during your presentation, but I understand that this is a bill that can potentially have beneficial effects for the companies you represent. Let's hope that, with the support of parliamentarians, we'll be in a better position to serve your users and the citizens of this country.

That leads me to ask you the following question. Once this bill is passed — if that's the will of the House — do you expect to save on your operating costs? If so, by what order of magnitude?

We can start with Mr. Bélanger.

Mr. Raynald Bélanger: Definitely, but that will probably start when the time comes to renew the contracts. At each renewal, we don't think about trying to open existing contracts.

Furthermore, five years ago, we adopted the strategy of entering into short-term contracts. We were still waiting for this bill. For a period of time, we renewed contracts for one year at a time; we stretched them out. They obviously wanted to negotiate 10-year contracts with us; that's obvious.

However, the last time, we lost the battle. We were forced to sign a four-year contract. We now have a four-year contract for the Deux-Montagnes line. We couldn't continue the strategy because it was becoming excessive. So we had to give in and sign a four-year contract.

Mr. Steven Blaney: When are the next expiry dates?

Mr. Raynald Bélanger: That depends on the lines. The contracts don't all expire at the same time. With CP, the expiry date is 2007-2008. That's approaching. We have to start negotiating those contracts one year ahead of time. Since it ends in July 2007, we have to start right away.

• (1625)

Mr. Steven Blaney: It's important to tell members supporting the bill...

Mr. Raynald Bélanger: It has an impact. Merely delaying for one more session would represent a lot of money for us.

Mr. Steven Blaney: That entails major costs, yes.

Mr. Kelsey, in your case, do you have a number of agreements or do you have only one?

[English]

Mr. Doug Kelsey: We have just one.

Mr. Steven Blaney: Was it 2015?

Mr. Doug Kelsey: Yes, 2015. However, this legislation would apply to any new services immediately, once the legislation is enacted. So if we look to expand, existing agreements would be protected until expiry. New services would be part of this, going forward.

[Translation]

Mr. Steven Blaney: So there wouldn't necessarily be any short-term impacts following passage of the bill, but that would provide a little security... There wouldn't necessarily be any short-term impact?

[English]

Mr. Doug Kelsey: It wouldn't on the existing contract, but we would start to work, I suspect, with the regional transportation authority in Vancouver region to consider a new economic relationship on which expansion would be based. And that, I suspect, would start very quickly.

[Translation]

Mr. Steven Blaney: Mr. McNeil.

[English]

Mr. Gary McNeil: We have two contracts, one with CN that expires in 2010, and one with CPR that expires in, I believe, 2007. For us, we're really not doing this to save money. We would immediately put out more service. We already have plans on the books to double our off-peak service, which really is being held back right now because of the high operating charges from the railways. So we know that right away we would be putting out more service

for the same amount of money. Our main focus is getting the service out.

Mr. Raynald Bélanger: It's the same thing for us.

[Translation]

Mr. Steven Blaney: That's correct. It's not necessarily savings, but it's more cash to allocate to your company's other expenditures.

An hon. member: It's more services for the same amount of money. The demand is so high.

Mr. Steven Blaney: That completes my questions. I'm going to pass the rest of the time allotted to me to my colleague Mr. Storseth.

[English]

The Chair: We'll go to Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you for making your presentations today.

I'm interested in the issue of replacement cost versus net book value. I can assure you that net book value is always more appreciated from a buyer's perspective, especially with depreciation.

I'm wondering if you've looked at other fairer methods that may be able to satisfy both parties in this particular case, such as replacement value less a nominal rate of return over the life of the investment, such as 10% or something like that. Have there been any discussions as to what would be a fair value, for both parties, at which to purchase it back?

Mr. Doug Kelsey: I think the only comment I would make on this is that we are just looking to participate in the same type of acknowledgment of net book value of assets as all other CTA rulings are based on for other types or modes of travel. They're typically all based on the net book value of assets as well. So we're not trying to create anything new; we're just trying to tack on to the other agency types of decisions.

Mr. Brian Jean: Have you looked at any other types of evaluations?

Mr. Doug Kelsey: No. I know there can be others, but we think this is the most consistent application. I know there have been extensive reviews on replacement versus net book value of assets, and it consistently comes back to using net book value of assets each time. We are looking to follow that rather than recreate a whole new mechanism that doesn't need to exist.

Mr. Brian Jean: Do you have any other comments, Mr. Bélanger?

Mr. Raynald Bélanger: Yes. If you read most of the experts in that field, they will recommend net book value. During the review process, everything I read recommended net book value all the time as being the fairest way of doing it.

Mr. Doug Kelsey: I might add that I think if you look at a U.S. example on stand-alone costing, you could ask why that was put in place on a replacement cost basis. Well, it was at a time when the rail industry was severely struggling financially.

I would suggest anything but that is the case here. You have record world profits. One of the reasons the U.S. looked at it was so that they did not have to get into a subsidy conversation. The rail industry needs anything but that, when you look at their average contributions.

I think it's also really important here to keep our government spending in the same context. What percentage do we represent of railway revenue as it relates to business? If you go back to Statistics Canada numbers, the railway industry has about between \$7 billion to \$8 billion in revenue. For our track rates, excluding crewing agreements, because those are separate and related and we pay those in a buy-sell relationship, we are less than 1% of their revenue.

For the impact of it, and using similar calculations, it's almost meaningless. They don't even report commuter rail revenue. That's how insignificant we are in the total scale of their business.

• (1630)

Mr. Gary McNeil: If you look at replacement value, our big issue is that it's really a double hit. Any time the railways go out and replace any tracks or ties, GO Transit is already paying probably 50%, if not 75%, of that cost through construction and access agreements. To then be charged the replacement value of that asset on top of that would be a double whammy.

Likewise, with the Canada strategic infrastructure fund program right now, all the levels of government are paying for the track. They're paying for the track. The railway immediately takes possession of the track and charges back to me at full value to operate on that track.

The railway is getting a billion dollars' worth of assets and is continuing to charge me very high rates. I don't get a discounted rate because I built the track with government funds. I'm paying full market value on that track. They are making a lot of money from us.

The Chair: Mr. Hubbard.

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

I think the last few minutes have indicated a major reason why the group here today are showing appreciation for the bill.

Down the corridor, the railways are here today lobbying for more money for their own infrastructure. If you have the courage later to go into the room to tell them they're making too much money and you want a better deal, it might be a good opportunity—when you're all here at the same place at the same time.

Mr. Gary McNeil: We belong to the Railway Association of Canada. We are part of that association.

Hon. Charles Hubbard: Yes, but their message is a little bit different from yours.

With this business on the bill now, there's a strong endorsement. Transport Canada has liaised with you and talked with you. The overall attitudes in the bill are strongly supported by your groups.

Mr. Chair, in terms of trying to look at better air in our cities and better communities with regard to pollution and all that, the fact that you're able to provide this service and able to expand it is very significant. It's one of the ways we can deal with smog in the inner

city and deal with some of those factors that Minister Ambrose was talking about before Parliament in the past week.

With the expansion and the growth of light rail—

Hon. Andy Scott (Fredericton, Lib.): Does she have a dog?

Hon. Charles Hubbard: Be careful with your answer, because it could get you in trouble.

There are other cities, too, that are looking at transit of this nature.

This is probably off topic a bit, but when we have the three gentlemen here representing the three largest groups in our country, it might worthwhile to pose this question.

We have a lot of competition around the world in terms of who's providing the construction and the methods and who's actually doing the work and getting the contracts. Here in Ottawa we see that it will possibly be a company located in Germany. Some people in our country say that these contracts should have special initiatives that would support Canadian industry.

In your experience, in terms of already negotiating some of these contracts—we have the World Trade Organization, we have NAFTA—some countries give a little edge to their homegrown industries and build certain components into the contracts to ensure their own technology and some of their own innovation will be part of that new construction. Could any of you give a little information to the committee on the parameters under which you have to work in terms of offering a contract to the world? Companies from Spain, Germany, and probably from even China eventually will be competing for these, but we want to support Canadian industries and would like to see them more involved. I don't mean only Bombardier. There are others, too, that are making railway cars.

What parameters restrict better involvement by Canadian companies in competing for these contracts for mass transit?

Mr. McNeil has had the most recent experience, I would think.

Mr. Gary McNeil: The Toronto area, of course, has gone through quite a bit of that. I'm also on the executive of both the American Public Transportation Association and the International Association of Public Transport, so I see a lot of what I'll call protectionism, really. Down in the States, they have a buy America clause in all of their procurement contracts, and, of course, Bombardier has had to respond to that by putting plants in the United States, so that over 50% of the components get assembled in the States.

Personally, we don't have any restrictions. We go out internationally. We want the best product available. We hope the Canadian industry can respond to that, and in a lot of cases they do respond to that. They do provide very good equipment.

Really, you are asking me a very political question. You're asking us a very political question, because really what we say is that the rest of the world should deal with this the way Canada does. The rest of the world should be open to anyone to supply equipment without any preference, and really it's a shame that the rest of the world isn't following that route.

•(1635)

Mr. Doug Kelsey: The only comments I might add would be that philosophically—and I think a lot of it is philosophically based—the taxpayer expects us to pursue value, and value can manifest itself in a whole bunch of different ways.

We have suppliers. I not only run West Coast Express, I also run SkyTrain. That carries about 70 million people a year. There are certain elements that we can't get here in Canada, technologically speaking, because there are no drivers on the system. It's fully automated. We work with suppliers all around the world. We do encourage Canadian involvement on some, so we meet with suppliers and have annual supplier sessions. We ask if they have ever thought of looking at something or other, and that maybe it could be a Canadian solution.

I also think if you look outside this industry at the whole construction of the vehicle.... We can look at the automotive industry. The components are coming from all over the world, so part of it is how, in fact, they are net packaged or put together. The actual ownership, a lot of times, can be redefined. Fundamentally, whether the whole vehicle is built in Canada, or parts are built in Mexico, with some in Kuala Lumpur, etc., the main construction parts can be part of the negotiations.

Ultimately, as an operator, we really have to proceed in the taxpayers' best interest for the best value.

Mr. Raynald Bélanger: I would like to add that our market is very small when you compare it with those of other countries. For example, with passenger locomotives, we're talking in numbers of five to ten. So it's difficult to attract a local or Canadian manufacturer. Even for the freight, it's still being built in the States, where you can imagine there are a great number of locomotives.

There is no manufacturing company in Canada. There used to be some, but they all closed their doors, except for the cars. For the cars we have Bombardier, which has two plants, one in La Pocatière and one in Thunder Bay.

I think you are getting yours from Thunder Bay, where we got the last one. The next one might be coming from La Pocatière. They are a step ahead of the other countries on those cars, because the type we want is exactly the type they manufacture, so it helps.

The Chair: Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): I want to thank you for coming forward today and sharing some of your vision with us.

One of the things that really hit home with me today, Mr. Kelsey, is how this has been going through the system for the last 20 years. It's reasonable of you to expect that this gets put through committee in an expeditious and fair fashion.

I'd like each of you to comment on dispute resolution and go into a bit of detail. Speak a little, if you would, about dispute resolution with respect to what we've put in this bill and how it will affect your individual companies.

Mr. Gary McNeil: I'll start off, as the senior person here in both age and length of negotiating time.

GO Transit has been negotiating with the railways for 40 years. For the most part, it has been a healthy negotiation with the railways. I'm not here to put the railways down. They negotiate tough. They have an asset they know is valuable. They want to maximize their profit, and so they bargain hard.

The real issue is that we don't have any right of appeal. That's really the whole process here, the fact that we're dealing with a monopoly. I don't have any other choice of where I can run my trains. There is that specific corridor, and that's it.

So when I say to them, "You're charging too much", their comment to me is, "Take it or leave it." As a public agency, I can't just leave it. I want to operate more train service for the public, but at the same time I have a fiscal responsibility I have to adhere to.

I have the ability to say, "If you're not going to settle on this thing, I have a right of arbitration", which is an independent third party arbitration. Right now in my contract I have the right of arbitration, but typically it's done by an individual who's heavily involved in the railway industry. Not once has an arbitration ever been ruled in our favour.

The important thing for me now is that I have the ability to threaten to go to an independent agency, which means that the other party will bargain in good faith. That's the main thing.

I hope never to use the arbitration process. That's something I really hope. I would much rather deal face to face with, say, CN and CP. I would rather strike a deal, because that means we have to work together. If I have to go to an agency and go through an arbitration process, the railways can make my life hell, so I'd rather not go that route. I want to have a fair negotiations process. That's really what I want.

•(1640)

Mr. Doug Kelsey: Perhaps I would just add that Gary used an important word: arbitration. Arbitrations are typically based on past precedents. We're fundamentally talking about a new relationship here commercially in how it should look. So you couldn't ever get there on arbitration with this kind of mechanism, using precedents as your vehicle.

I think Gary made an important point here: there are so many things we do agree with railways on. We have other agreements in place where we think there are alternatives of commercial negotiations that create that true competitive environment. So there are great parts of our relationship. In our case, with Canadian Pacific, they do a wonderful job, an outstanding job, and they should be applauded.

In this particular case, we see unfortunately that the elements are there but we don't have leverage to create that balance—not an advantage, but equality—in the discussion. I think most people look at it, and it's called "effective competition". Where there is effective competition—that term that says there are similar types of services available—you can make choices if you don't like what's happening on that service. We don't have that, unfortunately.

As an individual who came from a background of network planning in a multi-billion dollar industry, I think we all know where the density is growing. The railways know where the density is growing. They just don't know what year it's probably coming and how the municipal political pressures start to build. You can follow it quite easily. So you have a pretty good idea of what the alternative is going to look like at some point in the future. Sometimes it takes years or even decades before it actually happens, but it's pretty obvious what it may very well look like when you have a corridor with capacity, or the capability of capacity, plus some contribution from different levels of government, to make it work for both railways and us.

The mechanism, as I said before, is crucial, and I was personally delighted in what Transport Canada had put forward in the bill. It said you have to negotiate commercially first. Trust me, I had attempted to take the railway, over our circumstance, to final offer arbitration, the first one probably in the history of the country, and unsuccessfully because I had a contract in place. Trust me, it is a painful, dirty process that you don't want to have to go through. And it's probably partially intended to be that way. To help people, do you really want to go?

But on this mechanism, we can't afford to put a load of people on a siding while a final offer arbitration process such as for shippers is settled. We can't do that. Our public measures our on-time performance in minutes, not while it sits on the siding for three days while we wait for the agency to make its determination when we put our case forward. We need a rule; the rule is hard, fast, and now. And it's not about taxpayers' interests. We don't want to be there, but we need the checks and balances.

Mr. Raynald Bélanger: I would like to add that at the agency there is already a process for the freight operations, so I don't think they start from anywhere. We count on them to determine the process. With their experience, they should do it.

Mr. Brian Storseth: I just want to ask one quick question here. Do you regard the aspect regarding noise, which we've put into this bill, as fair to your individual company?

Mr. Raynald Bélanger: I think I answered in French earlier, so I'll let the others respond.

Mr. Gary McNeil: We don't have any problems with the noise thing. We think we can work with that. Again, we deal with the environmental assessment process in the province of Ontario, so we're constantly dealing with the noise issues when we're introducing new services.

• (1645)

Mr. Doug Kelsey: The only challenge I would add on noise is that you really have two types of individuals, particularly in urban centres. One type is where those who are building the new development—and each municipality is different. They sell the development, and it's sort of *caveat emptor*; let the buyer beware, and then it shows up later, by the emotion of the purchaser or whatever. So that's one type of people we see, who say “Gee, what are you going to do about it?”, when we've all been running trains for 40-plus years, or railways in this case. The other type is those who bought into an existing environment.

I personally don't see anything unreasonable in it at all.

The Chair: Mr. Scott.

Hon. Andy Scott: Thank you very much, and welcome to the three amigos.

You've mentioned the length of time you've been appearing before committees like this, I suspect saying similar things. Maybe you've covered this, and if I missed it I apologize, so just tell me that and we'll move on. But how many different pieces of legislation have you seen? How much change has there been in the course of that insofar as any changes that might alert us to something? Essentially, I think what I'm hearing today is that you like the legislation, you'd rather be somewhere else, and you'd rather we were passing this today—not that you're not an entertaining group.

Is that a fair comment?

Mr. Gary McNeil: For me personally, this is the third piece of legislation, and on the commuter rail side it really hasn't changed. The issue in all of the legislation has never been the commuter rail aspects. I think it's the fact that it was tied up in other elements.

Hon. Andy Scott: There's time.

Mr. Doug Kelsey: It's our third attempt. It's been literally a cut-and-paste for each bill: C-26, C-44, and C-11.

Hon. Andy Scott: As it relates to you?

Mr. Doug Kelsey: As it relates to us, the only other one that was different goes back 20 years ago. It was Bill C-97, and many of the elements were the same—nothing structural. In fact, this is probably more comprehensive and appropriate.

Hon. Andy Scott: As time passes, one would assume some level of improvement.

Mr. Doug Kelsey: This has literally been a cut-and-paste for each of the last three bills.

Hon. Andy Scott: I'm interested in the infrastructure piece. This is also the committee responsible for infrastructure. I think we may want to take up some of those issues as well.

Is it fair that the Canadian strategic infrastructure fund would make an investment, that upon the investment the asset would go to the railroad, and in fact they would generate revenues on the basis of the public investment, which presumably you contributed to as a taxpayer?

Mr. Gary McNeil: That's true.

Hon. Andy Scott: If that public investment is in the name of... Generally I think your business is seeing attention and investment by virtue of environmental issues, fast transit, and so on. The strategic infrastructure fund speaks very specifically to an interest in this, and that you would represent the interest. It occurs to me that whatever moneys would flow from that investment would more appropriately be rolled back into more investment along the same lines.

Now, granted the revenue flow, if this is done as you're suggesting, it would be less because the prospect of arbitration would cause the negotiations to be more favourable. I think that's the basis of your optimism. I just want to make sure I haven't....

Mr. Doug Kelsey: Yes, we're not here to increase our friction, that's for sure.

Hon. Andy Scott: No, understood.

So as for the order of magnitude, are these kind of numbers available? I'm trying to get a sense of the costs of the 20 years. You suggested that if this were to happen right away, the costs would be less, and if it doesn't happen, you said specifically that you wouldn't be expanding until this is done. So with opportunity costs and practical costs to you as a result of the fact that this has taken far too long, there's a bit of an incentive to us.

Is there any response to that? Can you tell me?

Mr. Gary McNeil: I can use the Milton corridor as an example. I think it was in the late 1980s that the Province of Ontario invested about \$30 million into that corridor for track improvements to allow us to run some more trains. What ended up happening was that because of the high access fees in the corridor, we didn't put as many trains as we wanted. Of course, as the recession of the early 1990s hit, we actually had to reduce some train service in that corridor, which the freights then occupied.

So they essentially occupied the money that we put in. If this legislation had been in place in 1986, we would probably have all-day service on the Milton corridor right now. It's a crystal ball, but really there would be a lot more train service out there in the GO network than there is now. We have a lot of train service now, but I think there would be a lot more.

•(1650)

Mr. Doug Kelsey: I'm not sure, but I think GO's example was similar to ours with the West Coast Express. What kind of modal shift can you actually get for the person with the choice of a car who's commuting around Toronto, Montreal, Vancouver, Winnipeg, or any centre? For the dollars you put in, the modal shift that commuter rail generates is about 50% of our ridership with the choice of a car who are willing to park and say, you know what, I'll take a train. If our cost structures are not competitive and you put a bus in place, you typically get about a 12% to 15% modal shift.

That's not to say a commuter train is the answer for everything; it's just a tool in our tool box to solve problems. But where the circumstances are right and it's the right line, the right agreement, and so on, the viability for the modal shift far advantages putting commuter rail in.

I can't comment on what opportunities have been lost, but I know there's significant demand in our case. Our parking lots are full, our ridership is approaching capacity, and I suspect there'll be more trains coming.

But ultimately, down the road is to the railways. Don't just hit us on margin; help us where we can actually make it so economical that we can bring you more capital that benefits goods movement in the future, as well as passenger movement. And don't just look at it on a pricing basis—what can you extract and we can bear? That's not a good way for a long-term balance of prosperity for all of us.

The Chair: Thank you.

Mr. Jean.

Mr. Brian Jean: Thank you very much, Mr. Chair.

Very quickly, I know you've covered this in some respects, but I'm curious to know if you have any other goodies in your wish bag that you would like to see in this legislation governing you that you would consider equitable.

Mr. Doug Kelsey: At this time, from our perspective, it's appropriate.

Mr. Brian Jean: Thank you.

Mr. Bélanger.

Mr. Raynald Bélanger: Yes, the same for us. We worked hard just for this. At one point in time we said, let's get this, let's not do any more wishful thinking for anything more.

I mean, it was already hard to get this, so you can imagine, if we started to add to it, how it would simply disturb things. I think we're satisfied with what's in there.

Mr. Gary McNeil: Same. We're perfectly content with this. It really gives us the flexibility to do what we really need to do. It's fair to the railways as well.

Mr. Brian Jean: Thank you.

That's my only question, Mr. Chair.

The Chair: Thank you.

Because we have a little bit of time, I'm going to go around once more.

We'll start with Mr. McGuinty.

Mr. David McGuinty: Mr. Chairman, thank you once again.

I'd like to go back to the noise issue raised earlier by Mr. Storseth. A number of the affected parties with respect to rail noise in the country have come to see us or have spoken to us by teleconference, and have said that there are two weak features in this bill with respect to noise. To a certain extent, you're also in the noise business, and I'm sure you manage community expectations and challenges on that front.

The first issue they raise is the applicability of municipal bylaws to noise generated by rail companies. The second has to do with the sanctionability of the bill in terms of what kinds of sanctions are available to the CTA with respect to penalizing or pursuing rail companies.

Can you give us a sense of what you deal with every day in managing on both those fronts? Do you think it's a competitive disadvantage? You're in different businesses, but are you having to deal with things that another segment of the economy doesn't deal with?

You deal with this issue, I'm sure, every day. Can you comment generally on those two aspects of the noise question?

• (1655)

Mr. Gary McNeil: When you look at the municipal bylaws related to noise, if the municipalities actually applied their bylaws to any transportation infrastructure, you'd shut down every single road at 11 o'clock at night. I mean, that's one of the things, that infrastructure-related stuff is not like the fixed noise component of generators, the banging of dump trucks, and things like that. The railways, I know, have a number of issues associated with this. The noise essentially would result in rail yard operations being shut down and things like that. So there are some major issues there.

Typically, in most cases these rail yards were there long before the residential development came into play. The municipalities actually allowed the residential development to be built, and now all of a sudden they're blaming the railways for the noise.

As a commuter operator, our big issue with noise really is the need to blow the whistle when you go through level crossings. That's what most people complain about. At 5:30 in the morning there are four big blasts of the horn, and it wakes everyone up. That's done purely for safety reasons. If we had road-rail grade separations all over the place, those issues would go away. Again, that relates to infrastructure that needs to be put in place.

So probably our number one issue, from a commuter operation perspective, is the whistle-blowing.

Mr. David McGuinty: And the bylaws?

Mr. Gary McNeil: Actually, the municipal bylaws really don't apply to us. When we do new rail corridors, we actually go in and do noise tests in the area. We find that the background noise level is much higher than the noise that our introduced services would apply to.

We comply with the provincial regulations related to noise, and likewise the federal regulations that currently exist.

Mr. David McGuinty: Not bylaws.

Mr. Gary McNeil: No, bylaws don't impact us.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Thank you, Mr. Chair.

Mr. Bélanger, I have a few brief questions to ask you.

In answering the question from one of my colleagues, you spoke about savings. It's odd, but I don't see it that way. You're afraid of a lease increase that could reach 80 percent if the standard isn't changed. That's somewhat what Mr. Kelsey was saying earlier. Ultimately, these aren't savings; it's a price that will be fairer for everything you have.

Mr. Raynald Bélanger: I agree with you.

Mr. Mario Laframboise: If there are savings, I'd like you to tell me so because the railway companies will say that revenue is being taken away from them. Do you think you are achieving savings over what you pay today? If not, are you going to limit increases?

Mr. Raynald Bélanger: That will prevent us from having to increase rates later. Our answer to that is that we'll have to increase rates at some point.

I'm using the incorrect term. It's more a reasonable price that will enable us, if it falls, to reinvest money immediately, because the demand and needs are there. Right now, we can't increase service because we can no longer afford to pay for it. It's as simple as that.

Mr. Mario Laframboise: I have one fear. The fact that you're on the list as a buyer of abandoned lines scares me. The companies have an obligation to put everything they're not using on that list. As a result of the new ways of doing things, I'm afraid they'll put less on the list.

Do you have that fear?

Mr. Raynald Bélanger: That's no longer a fear right now; it's a reality. That's what they're doing, and a company, the name of which I won't mention, is doing it more than another.

Mr. Mario Laframboise: Name it.

Mr. Raynald Bélanger: I don't want to single out anyone.

Mr. Mario Laframboise: It's important for us because often, with regard to the development of our corridors...

Mr. Raynald Bélanger: It's not only the purchase price, but it's also in reconstruction.

If we issue a call for tenders to rebuild a line, the cost isn't the same either. Here we haven't addressed the surcharge issue or other similar issues. That also comes into play. So it will cost us much more to rebuild.

Mr. Mario Laframboise: My last question concerns clause 44 of the bill, which amends section 152 of the present act. This doesn't just concern price. The text reads: "[...] in respect of any matter raised in the context of the negotiation [...]" There could also be an intervention concerning times of use, and so on.

Do you have any problems with that, or would you like the Canadian Transportation Agency...

Mr. Raynald Bélanger: That's what we're going through today.

Yesterday, I worked on scheduling matters. All these matters come into play. It's an eternal struggle to determine how we can manage to agree so that the service we put in place meets the public's needs.

• (1700)

Mr. Mario Laframboise: That can help you...

Mr. Raynald Bélanger: Yes, that can definitely help us as well. It will limit the discussion and make things much easier.

[English]

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair, and thanks to our witnesses.

Last week we had very extensive hearings on the issue of noise from both community groups and some cities. There seem to be two proposals on how to regulate or make the legislation stronger in dealing with railway noise, particularly in residential areas. The first is to restrict certain types of activities on rail lines to daylight hours or office hours. A second is to limit the decibel levels from railway lines.

I know this is not directly related to what you've come to speak to us about, but I am interested in knowing if you have an opinion on whether one approach is better than the other, or whether you feel both approaches are valid or not.

Mr. Doug Kelsey: My home backs onto a railway, so I'm living the nightmare, or the dream.

Mr. Peter Julian: Where's that?

Mr. Doug Kelsey: It's in Langley. So as a resident I see no need to restrict the activities of the railways regardless of what's on the track, whether it's freight movement, a coal train, potash, or the Rocky Mountain VIA Rail train. So as a citizen I'd say it's not appropriate. There's so much investment this nation has made in the railways and around the railways, we have to optimize the asset, the plant, together.

Most people are moving in, and they're either building or have taken over something that has a railway line. It's not hard to find out where it is and do some due diligence before you make that purchase. If you make the purchase, it can also be factored into the purchase price, so it's relative to supply and demand. But I think it's unfair to make the railways responsible for all those restrictions.

On the decibel levels, some trains are louder than others. Sometimes it's also the length of the train. Our passenger trains are light, move fast, accelerate quickly, and slow down quickly, so we're probably in a slightly different circumstance compared to a typical freight train. We have yards that we work in. In the case of West Coast Express, there are no residents around those yards, for the most part. There are a few in the downtown one, but we have worked with those people. We shut locomotives off at certain times. There are best efforts that can sometimes prevail, and it has worked out quite nicely.

Mr. Raynald Bélanger: If I might add to this, right now the locomotives we're buying have very high restrictions, not only on noise but also on emissions. We could still reduce that, but there comes a point when it's useless. Also, most of the time we're running on welded rail. Welded rail reduces the noise extensively.

As we all said, the surrounding noise is worse than ours. That doesn't mean we're not trying to reduce it, but I don't think we're creating a problem. That would be for the agency to decide or resolve. But noise is part of the railway, and noise is a very subjective issue, like temperature. For me right now, it's 90 degrees here, and I'm sure it's not the same for you. It all depends on how you see it.

When I was a youngster, I was living right next to a sumping yard—24 hours a day. After two days my father said, "We're not going to live here; we're moving." We couldn't sleep. But after a few years, when we went on holiday somewhere, we could not sleep because the noise was not there.

It's not a noise that is like a pitch noise, and it doesn't last long. When a train goes by, it doesn't last long. It's five or ten seconds. It's not like the autoroutes, where it's a constant pitch all day. That's bad. That's what can damage the ears. But our noise, I would say, is a friendly noise.

That's my point.

●(1705)

The Chair: For the last question, Mr. Fast.

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

I think if there's a conclusion that can be drawn from today's question and answer session, it's that if this bill is passed, at least with respect to proposed sections 152.1, 152.2, and 145, the big winners are going to be taxpayers, commuters, and maybe the environment—in fact, it almost certainly will be—which brings me to my question to all of you.

I believe all of you suggested that at this point in time you're still hesitating on whether to expand your systems and purchase additional rail rights, simply because of the cost, and that this legislation would enable you to improve and increase the level of your service. Are you in a position to provide us with some particulars as to what kind of expansion you're looking at if this legislation goes through?

Mr. Raynald Bélanger: We're planning to double our ridership. We can double our ridership with the proper moves—buying double-decker cars, adding more trains, and everything. This is our plan. The AMT produced a three-year plan, and it's all there. It's all on paper right now. For us, it will be a new era.

The Chair: Mr. Kelsey.

Mr. Doug Kelsey: In the case of West Coast Express, we know there's demand for weekend service and for selective daily service, but we are not far enough advanced on what that actually might look like. Frankly, I said that I wasn't going to waste my time and my team's time—this is all hypothetical—until this happens. But there are some early indications, some early research, to say there's quite a bit of pent-up demand here.

Mr. Gary McNeil: We're looking at a 50% increase in our ridership over the next 10 years, actually. I don't want to put it in the context that if Bill C-11 doesn't get through, it's not going to happen. It's one of those things that will probably happen faster with Bill C-11, but it's going to happen anyhow. The province has recognized the fact that we have to do things on the rail side, so it's going to move ahead. It's just going to cost the taxpayers more if Bill C-11 doesn't go through, that's all.

The Chair: Thank you very much for your presentations today, Mr. Bélanger, Mr. Kelsey, and Mr. McNeil. We appreciate it. I'm sure you're looking forward, as we are, to the end results of these meetings. We appreciate your time. Thanks very much.

I think we'll try to be as quick as we can, as we do have a motion on the floor that we want to deal with.

We'll suspend for two minutes.

●(1710)

The Chair: Order, please.

As we do have some limited time, I'd like to turn the floor over to Mr. Bell, who gave notice of motion at the last meeting.

Mr. Bell.

Mr. Don Bell: Thank you.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Mr. Chair, with your permission, before discussing Mr. Bell's motion, I'd like to raise a procedural matter.

I introduced a motion for Mr. Duchesneau and the President and CEO of ADM, Mr. Cherry, to appear before the committee. However, I have not had an answer. Since then, the committee has considered other motions on two occasions. I want to discuss the motions with my colleagues, but I would like us to make sure that the witnesses we have agreed to summon can appear.

I've spoken to the clerk. He told me that he had sent Mr. Duchesneau e-mails, but that he had not received any reply. That's a problem for me. I'd like someone to tell me that we've contacted Mr. Duchesneau and Mr. Cherry to ask them when they will be available so that we can set a deadline.

I want to discuss other subjects, but, if my subject is not addressed and if this is a way of pushing back the appearances of these witnesses, I will oppose my colleagues' motions, not because I disagree with them, but because I simply want to have mine examined.

[English]

The Chair: That's a very good point. I am advised that Mr. Duchesneau had suggested near the end of November he would be available to attend the committee.

[Translation]

Mr. Mario Laframboise: Except that we haven't received confirmation. I spoke to the clerk. There's nothing written.

If a witness acts like a delinquent and does not want to answer, we have means to call him to order. I would like to be assured that, by next Thursday, we will have contacted someone at Mr. Duchesneau's office. I want to know whether everyone agrees that we should ask him to answer us and tell us when he will be available.

[English]

The Chair: I'd be happy to make sure the clerk makes Mr. Duchesneau aware of your concerns. If we don't get a confirmation, we'll make sure that we set aside some time to proceed with it.

Mr. McGuinty.

Mr. David McGuinty: When did we actually contact Mr. Duchesneau?

The Chair: It would have been after the motion was brought forward by Mr. Laframboise.

Mr. David McGuinty: And the date of that discussion was what?

The Chair: October 3.

Mr. David McGuinty: So we're being told by the president and CEO of CATSA that he's not available until the end of November?

The Chair: I think, yes, that's basically what's going to fit into his schedule. I guess we can demand that he come, but we left it as an open invitation.

Mr. David McGuinty: As a point of information, am I to understand that Mr. Duchesneau's term of appointment is going to be up soon?

The Chair: I have no idea, Mr. McGuinty.

Mr. David McGuinty: I believe it is, and I think it would be important to get him here, to appear before this committee, forthwith. Three weeks is plenty of notice. Other witnesses have moved mountains to be here in front of us. I personally don't understand why Monsieur Duchesneau hasn't already appeared.

The Chair: I can't speak for Mr. Duchesneau. What I can do is say that, through the clerk, we'll contact him again and impress upon him the urgency and to provide us with a fixed date. And if it's not satisfactory to the committee, then we'll take the necessary steps.

Mr. Jean.

Mr. Brian Jean: I understand that the will of the committee was to actually have both persons, CATSA and the other gentleman, here at the same time, and that might be part of the scheduling conflicts.

• (1715)

The Chair: I know there were two names on the request, so that might be part of it.

But can I advise the committee that we'll check directly with him and get back to you this Thursday?

Mr. Robert Carrier: With the two of them?

The Chair: Hopefully, yes. And that may be part of the problem, as Mr. Jean said, just getting two people together in the same room.

Mr. Bell.

Mr. Don Bell: Thank you.

Early on, when we talked in this committee about some of our priorities, one of those was safety—air, water, and rail safety. Going back, we did have CN here, talking about the particular increases they had had in derailments and accidents, particularly in 2005. They indicated that they had taken steps to reduce those in 2006—year to date, so far. Going back and looking at what happened with the number of derailments, particularly in British Columbia—although there were some in Alberta as well—with the change of ownership from BC Rail to CN, there were an inordinate number of derailments, in particular, and accidents in 2005 and in 2006.

One of the notable ones was where a chemical derailment occurred in the Cheakamus River in B.C. and resulted in a substantial negative environmental impact—a huge fish kill, for example, that has affected the run on that river drastically, devastatingly. Subsequently, a locomotive accident resulted in the death of two rail workers in 2006, when the locomotive left the tracks and two rail workers died.

The purpose of this motion is to suggest that we need to have an inquiry that spells this out. We heard they're down. We heard they rose, particularly in 2005. I think if we have a proper inquiry, we would have a baseline in the future to judge the actions of the railways as we go forward. I think we need to have this inquiry that would go back and spell out exactly the increase. Then if there has been a decrease, as they state, we can be aware of that and of what steps are being taken. We have a responsibility for the passengers, we have a responsibility for the public, we have a responsibility for the railway workers, and we have a responsibility for the environment. I think in line with our priority of rail safety, this would be appropriate.

I'm recognizing, in terms of timing, that at a committee meeting I wasn't able to attend, there was a suggestion, when another request for information came up—not on rail safety, but on another matter—that there was the desire for this committee to move ahead with Bill C-11 and to finish Bill C-11 before we moved on to other issues. I'm not suggesting that this jump in priority. Safety, of course, is the top priority, but I'm suggesting that if we start to put the wheels in motion or get this on track—no pun intended—that we at least will have the ball rolling and we can then move into this in a timely manner.

I was provided with some information that you're going to table, Mr. Jean. Perhaps I could make reference to it, Mr. Jean. Can I indirectly...?

Mr. Brian Jean: No.

Mr. Don Bell: All right, I'll paraphrase it, then.

Last year, in 2005, particularly at the time of the Cheakamus spill in August, there were a number of things ordered by Minister Lapiere and the transport department, in the previous government, and there was a series of targeted inspections as a result of that. Following that, there were some other incidents. There was a specific order from the minister in September or October, I think it was, for a four-week audit of CN safety management systems, which occurred between November and December last year. The commitment was that this audit would be made public when it was received.

At that time, there was an order from the minister, as well, limiting the length of trains as one of the issues of the difference in the management systems between CN and BC Rail, as well as perhaps the unfamiliarity with the unique B.C. conditions—the curvature of the track, the difference in elevations. That report was to be made public, and I gather it was received by the new government somewhere in the spring, in April or May, and I note that there were meetings. Minister Cannon apparently met with the railways, CN in particular, in May of this year. The audit was not made public.

• (1720)

Subsequent to that, there was a unique, first time ever, section 32 order by the minister in July, after the railway deaths on the locomotive. And that order was not made public. We discussed that. It was raised at this committee in terms of the fact that we wanted to know what the detail of the audit was and what the order was, why there was this unique section 32 order to address the deficiencies and the safety management program.

I understand that CN had appealed the Transport order, and I now understand that CN has submitted a plan, as recently as a week ago, to come into compliance with that order, the minister's order. I congratulate the minister on having taken the action to bring this order in, except that I don't know what the order is. But if it's going to result in safer rail, that's the purpose.

I understand that CN retains the right, once the department determines if CN has in fact complied with the order, to appeal. My concern is that we need to know what the audit said, and it should be a public record, because we're dealing with public safety. We should know what the order was and why and how they've complied. Generally—not to pick on CN, but CN is the particular railway that's in question here now—there were other derailments by other railroads, and we need to look into that issue of rail safety.

We said at the beginning of this term that this was going to be a priority of this committee. I would like to have an action motion on file indicating that we're going to do this and do this as soon as it fits appropriately into our time schedule.

Therefore, the motion I submitted was that this committee conduct an in-depth inquiry into rail safety, and in particular, the recent CN accidents in British Columbia and western Canada, including a derailment that caused an environmental catastrophe in the Cheakamus River and a locomotive accident that resulted in the deaths of two rail workers in June 2006.

The Chair: Thank you, Mr. Bell.

Mr. Jean.

Mr. Brian Jean: Thank you, Mr. Chair, very much.

I would like to table, first of all, in both official languages, a copy that I provided earlier to Mr. Bell and actually to Mr. Laframboise. Those were the only members I saw, so I provided copies to them.

So I will table that document. One has been made for each committee member, so you can have an opportunity to read it. It goes into quite a lot of detail. We've tried to summarize as much as possible, but certainly I think—

Mr. Steven Blaney: What is the document?

Mr. Brian Jean: You're going to see very soon, sir. It's a summary of what's taken place since some of the accidents. Certainly 2005 was what you would call less than a banner year in relation to what took place with CN and just generally with railway safety.

Less than a month after the British Columbia derailment, in which two crew members, unfortunately, were killed as a result of the accident, the minister took it upon himself to issue, for the first time ever, a ministerial order, under section 32, to make CN come into compliance with some of the other.... I think there were something along the lines of 59 enforcement actions.

Of course, there has been an action plan, as Mr. Bell said, put forward, as of October 18. Indeed, you'll see, since some of the actions were taken by this government and the previous government, that industry-wide accidents are down by 14%, and derailments are down by 30%. Obviously the corrective actions did do something.

Notwithstanding all of that, Mr. Bell, with respect—and I was born in British Columbia, and it has a place in my heart and always will—we are a national committee, and we have a responsibility, I think, to all Canadians. Certainly, I think, the people in Alberta who suffered the response from Wabamun would like to be part of any kind of study. As has been said by all members here, rail safety, airline safety, and all safety issues are a number one priority of this committee and a number one priority, quite frankly, of this government.

So I think we're being a little bit premature in doing, first of all, a study just of British Columbia, and I would like to encourage all members of this committee to include all of Canada and all Canadians in any rail safety study that's done by the committee.

Quite frankly, I would invite the members to read what took place and what has happened with this government and the previous government, and then address one particular question: what else could have been done? I don't think anything further could have been done, except to stop all the railroads across Canada. And I don't think anybody wants that to happen. Certainly the minister, within 28 days of the final episode in B.C., issued a ministerial order, and as I said, that has never been done before.

I would invite the members to read this report and come back with any suggestions. But the reality is that we have a very busy agenda. The first thing after Bill C-11 is safety of the transportation sector across Canada.

Quite frankly, I don't want to just study British Columbia. All geographic areas of this country place certain challenges before us, and we have to study rail safety across the board and across Canada to do justice to all Canadians.

I would recommend, though—and I think Mr. Bell has brought up a good point—that the safety study should not just include what we were going to study, but should have a specific emphasis on employees, on people who are users of the rail line, and on the environment. So a particular emphasis on those would be appropriate—not in this particular motion, but certainly, if it be the will of the committee, we should study them at great length, as far as safety goes.

• (1725)

Mr. Don Bell: Can I clarify the motion, in response to Mr. Jean?

As a friendly amendment, we can certainly add the words “in Canada” on the third line, after “into rail safety”. That was implied. I wasn't talking about just British Columbia. I said, “and particularly the recent rail accidents in British Columbia and western Canada”. The inference was that it's to conduct an in-depth inquiry into rail safety in Canada, and I meant that in the broader sense.

I'm happy to add “in Canada” as a friendly amendment, if that responds to your concern, Mr. Jean.

Mr. Brian Jean: Mr. Chair, isn't that what we've already decided to do as a committee?

Mr. Don Bell: This motion would put some action to that intention. That's all I'm saying.

Mr. Ed Fast: Mr. Chair, I would normally be inclined to support this motion, given the fact that we've discussed safety on a number

of occasions at this committee. But I believe it's premature for a number of reasons that Mr. Jean has mentioned, plus I'm concerned that we would embark upon a costly process when this committee is in fact already committed to addressing the issue of safety in the months to come.

We know the minister is taking a number of concrete steps. We now have an action plan in our possession. Presumably we will find out what the results of that action are going to be, so I'd hate to commit this committee to a cost that perhaps could be avoided. The parliamentary secretary can correct me if I'm wrong, but it does appear that CN understands that we, as a government, take some of these infractions seriously, and hopefully they are moving to fulfill their action plan.

I'm not opposed to the motion, just the timing of it. If there was no further action and we were at the same place two months from now, I'd probably support it.

The Chair: I'm going to recognize Mr. Julian, but if I remember correctly, during the discussion we had not only with this committee but with the subcommittee, it was my understanding that the Transportation Safety Board is doing a safety evaluation. We had talked about waiting until they provide us with that assessment.

I'm going from memory rather than actual fact, but I thought that when we discussed the safety issue, that was one of the things we were waiting on. That way, we wouldn't repeat the same process, but develop the extra processes.

Mr. Julian, I'll look to you to confirm that or not.

Mr. Peter Julian: I don't believe so, Mr. Chair. I know we have raised this issue a number of times since we started this parliamentary session.

I support the motion, particularly with the clarification that Mr. Bell has just added, which is that we are looking at it on a nationwide level. It's very relevant, given that we are dealing with SMS within the rail system, and with Bill C-6 we might be looking at the SMS in the airline industry.

So it's very relevant to be looking at this issue. I think it's important that we not lose sight of other priorities, like the one Mr. Laframboise mentioned and which we have already adopted. As long as we're not losing sight of those other priorities that we have previously adopted, I feel this is an important issue for us to tackle as a committee.

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: There are two interesting things in Mr. Bell's motion.

It's curious, because, personally, I would have liked to know the details of the matter. I like what the minister has done — I'm saying that in a nice way — intervening under section 32 of the act. However, I would have liked to invite Transport Canada representatives to appear very briefly in order to determine what happened in this matter.

My problem is that a review application has been filed by CN. If there is a review application and the matter is before the courts or I don't know where, can we discuss it or not? There are factors that escape me. I also would have liked to see the action plan that the company submitted before we make this decision. Is it possible to see it, even though that took place in camera or in another context?

We've already decided to consider the matter of railway safety, and I'd be in favour of that. However, my problem is that Bill C-11 must be examined first. I'm going to support this question, provided we examine Bill C-11 beforehand.

In this specific matter, I'd like to know whether it's possible to have a meeting with Transport Canada and CN representatives so that they can come and explain themselves and give us details. I like the way the minister has proceeded. However, can we get these documents if the matter is before the courts? That's a problem that's preventing me from making a decision today.

So I ask Mr. Bell to wait until the next meeting, because I want more information. Is that possible or not? I'd like Mr. Jean to tell us. I would have liked to examine this matter because I find the solution an interesting one. If we can examine these ways of doing things, that will help us in our own matters.

• (1730)

[English]

The Chair: Mr. Hubbard

Hon. Charles Hubbard: I think it's very significant to get started with this, but it would be good to see a timetable of what we're going to do from now until the Christmas break. We'd like to get the bill disposed of as soon as possible, and I'm not sure how many days that will take. Maybe at our next meeting, we could have a timetable and see if we could fit this in. It would be better than to vote tonight on something we can't do.

The other legislation that you have, Brian, is it being pushed? Where does it sit?

Mr. Brian Jean: [*Inaudible—Editor*]...to push them all, Mr. Hubbard?

Hon. Charles Hubbard: Yes, but I don't see much evidence. I hear a lot of talk, but not much evidence.

As for Bill C-11, you'd like to spend how much longer with that? Would it be a couple more days?

The Chair: I know we're close to the end of our witnesses, and I would be prepared to bring a list forward as to the time roll-out. It depends on the committee's debate after that point, but I think we're maybe two more meetings from dealing with all the witnesses on the list. Then we go to clause-by-clause.

Hon. Charles Hubbard: So we have probably three more meetings, and then we have Mr. Laframboise's motion to deal with, and Don's. Are there other items too?

The Chair: I know that Bill C-6 is in second reading, and we have another motion for Thursday that we've been given notice of today.

Hon. Charles Hubbard: With your steering committee, could you project a timetable for when we could try to dispose of—

The Chair: On Thursday we have RAC, the Railway Association of Canada, and either CP or CN. I think we would like to dedicate as much of that meeting to them as possible, but I am prepared to take direction.

Hon. Charles Hubbard: It would appear, Mr. Chair, that we have three motions to think about.

The Chair: Would the committee agree to set aside an hour to discuss these three motions? That would limit us to an hour and a half with the railways. I take direction from the committee.

Mr. Brian Jean: Quite frankly, Mr. Chair, I'm glad this is a transportation committee, because I'm getting motion sickness.

I think it's a good motion, but we're already dealing with it. I think it was the number one priority of the committee, quite frankly.

I'd put forward a friendly amendment. I think that crossing out British Columbia.... Indeed, what's less significant...the people at Wabamun? It's not mentioned in here. We are a national committee, not just a geographic one.

At this stage I would invite all members to participate in the vote tonight, especially the members on this side of the House. Could we take this home, look at it, see what the minister and the department have done? I think you'll be quite impressed if you haven't had the opportunity to read it. Just as a matter of record, I believe it's very obvious that this government is participating in a conciliatory and cooperative manner. We're providing this information at first blush. I would encourage the members to think about that when we work through this. Let's get to the work of the legislation and move forward on the issue of safety, which we already have before the committee.

• (1735)

The Chair: Mr. McGuinty.

Mr. David McGuinty: Thanks, Mr. Chairman.

I'll try to address some of the things that are in my mind in point order.

First of all, I think the motion's very clear. It doesn't talk about exclusively CN Rail accidents in British Columbia and western Canada, it speaks about "particularly", so it doesn't necessarily have limitation in geographic scope, Mr. Chairman.

Secondly, I just wanted to ask something. This document that was just tabled here in English and French, who wrote this? Is this a Transport Canada document?

Mr. Brian Jean: Yes.

Mr. David McGuinty: So can I ask why it's not on Transport Canada letterhead?

Mr. Brian Jean: They're trying to save money.

Mr. David McGuinty: Is this from the minister's office or is this from the line department itself?

Mr. Brian Jean: It's from the line department and was prepared for the committee.

Mr. David McGuinty: Okay, I just wasn't sure who wrote this. There's no letterhead, no nothing, no indication. There's a date on it, Mr. Chairman, but it gives us no idea as to the source of this.

I think I actually want to go through a number of these bullet points, which are very interesting, because the more I read them, the more I believe Mr. Bell's call for an in-depth inquiry is justified. Obviously the department has taken some action, the details of which we have no knowledge. We have no knowledge, Mr. Chairman, of the targeted inspections listed under bullet point three. We have no knowledge of the four-week audit of CN's safety management systems under number four.

Obviously the Minister of Transport felt that rail safety was of such import that he met with the president and chief executive of CN. Clearly then, it must be a very important issue, which again I think justifies our committee looking at it.

Somebody made reference to earlier to an action plan, copies of which we have not seen. The committee hasn't seen a copy of the action plan that was just referred to; that's not in our possession.

Someone raised the question on the other side, on the government side, saying, what else could have been done? I thought that was exactly the import of this motion, to have the committee inquiry find out precisely what might have been done in response to a number of these accidents.

Of course, there is section 32—and I'm very cognizant of what Monsieur Laframboise said earlier about the fact that the minister came and testified and said he wasn't able to speak about this issue because it was now subject to appeal. It doesn't mean that we can't look at some of the grounds that were used to justify section 32, to my knowledge, and it certainly doesn't mean, Mr. Chairman, that we couldn't examine the grounds for appeal, of which we have no knowledge, put forward by CN to the Transportation Appeal Tribunal of Canada.

So I'm of the view that this is now a pretty important and front-of-mind issue for many Canadians, not just in western Canada. I would strongly support that we move in the subcommittee to define when we can get to it.

The Chair: Mr. Bell, very briefly.

Mr. Don Bell: I just wanted to clarify that I'll consider as a friendly amendment adding the words "in Canada" on the second line, after the words "rail safety", so that spells it out. I think it was

implied, because I then said "and particularly", which meant rail safety in general, but particularly in this area. The reason for the reference to CN and B.C. is because both in B.C. and Alberta is where the greatest spike in numbers occurred, and I think it was a result of the takeover of BC Rail. We may get some answers back on that, but that's the reason.

It's not meant to be exclusive, it's meant to be inclusive.

Mr. Brian Jean: Shouldn't we include all of western Canada, not just Alberta?

Mr. Don Bell: Yes, I made reference to that. I made reference to western Canada, and we can say "in Canada generally" after "rail safety". The reason I wanted this is that I felt that if we had it on the record, and when it's acted on is in accordance.... I originally considered putting in "following the consideration of Bill C-11", but I thought I would leave that up to the scheduling of the committee executive, Mr. Chairman.

To Mr. Laframboise's comment about the timing, it was that it would come at the appropriate moment, but it would be on the record and it would be there for us to act on in due time.

The Chair: I do take direction from the committee, and I sense that there might be a willingness to defer this until Thursday to allow for more debate. Would the committee grant that, or do you want to have the vote right now? I'm asking the committee if we'd like to defer this discussion until Thursday.

● (1740)

[Translation]

Mr. Mario Laframboise: We'll discuss it at the next meeting, since we have no more time today.

[English]

The Chair: I do look to the committee for direction, if that's okay.

(Motion allowed to stand)

The Chair: So we will defer this until Thursday. I will ask the subcommittee to meet or talk by phone before the meeting on Thursday to set up the final schedule of events.

Thank you. The meeting is adjourned.

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