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## **Standing Committee on Transport, Infrastructure and Communities**

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**Chair**

**Mr. Merv Tweed**

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## Standing Committee on Transport, Infrastructure and Communities

Thursday, October 26, 2006

• (1530)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Thank you and good afternoon, everyone. We are now in meeting number 21, the Standing Committee on Transport, Infrastructure and Communities, 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.

Joining us today from the Railway Association of Canada we have Mr. Cliff Mackay. He's the president and chief executive officer. Also with us is Mr. Claude Mongeau, executive vice-president and chief financial officer of Canadian National Railway Company.

I know that you've received some instructions from the clerk. Mr. Mackay, if you'd like to start, you have approximately seven minutes.

**Mr. Cliff Mackay (President and Chief Executive Officer, Railway Association of Canada):** Thank you, Mr. Chair.

On behalf of the Railway Association of Canada, let me first say thank you for the opportunity to appear before you. Our association represents about 60 railways across the country, which is essentially the whole scope of railways in Canada: the class ones, the short lines, the regionals, the inter-city, VIA, the commuters—some of whom I think you saw earlier this week—and some tourism railways.

More than six years have elapsed since the Canada Transportation Act review panel rendered its report and made a number of recommendations on moving forward with the act. We see Bill C-11 as an important part of a response to that report.

We've had a number of opportunities in the past to comment on various proposals to amend the act and we hope, Mr. Chair, that we are seeing the end of a very long and complex consultation process on this matter. Our view is that while there are a number of important amendments before you, there are also major issues facing the industry and the country, and we'd like to get on and focus on some of those in the future.

In a nutshell, the Railway Association of Canada supports most of the provisions in Bill C-11. I'm going to spend my time today speaking on the noise management issues. Some of my colleagues from individual railways do have concerns about some of the other matters in the act, in particular the public passenger service provisions, but since the business interests of our members diverge

on that particular matter, the Railway Association itself won't be taking a formal position on that matter.

Let me turn to noise management. The RAC believes that the bill sets out a clear authority for management of noise related to railway operations. Since a 2000 Federal Court decision that affected the ability of the CTA to exercise jurisdiction over railway noise complaints, there has been some confusion out there as to who really has the authority to regulate noise in the national railway system. We are very supportive of this bill because it clearly solves that problem. It says clearly that the federal government and more particularly the Canadian Transportation Agency have the authority to exercise noise regulation in Canada.

We think this is important because the demand for rail services is growing, and with it the complexity of our operations and our interface with communities across the country are growing. The trend toward ever-increasing imports, particularly from Asia and the Pacific, and the rapid increase in exports, both to the U.S. and offshore, are making the relationships between communities and railways more challenging every day. We think this bill helps to make that partnership better over time.

However, I must point out to you, Mr. Chairman, that the industry has not been doing nothing in the interregnum. A few years back, we signed a memorandum of understanding with the Federation of Canadian Municipalities and other stakeholders to begin a voluntary approach to better management of noise and other proximity issues.

The MOU was signed in 2003 and supported by not only the FCM but also by the Canadian Association of Municipal Administrators. The main purposes of this MOU were and still are to gain and share a common understanding of the current issues around proximity, to improve communications between the parties, to implement a flexible but formal dispute resolution process, and to develop guidelines on such issues as land use, noise levels, and other technical matters.

The RAC and the FCM encourage resolution of issues at the local level. I must say, Mr. Chair, that we're very pleased to see proposed section 95.3 of this act does so in a similar manner. We strongly believe that the best place to solve issues is at the community level, and third parties should only be intervening if in fact we can't find the solutions there.

To achieve these common objectives, I just want to give you some idea of some of the things we and the FCM have done to date. We've established steering committees and three large working groups with equal representation from the parties. We've developed a communications plan. We've developed a good-neighbour video, which is an awareness video.

We've completed and published three case studies on real issues, one here just across the river in Gatineau, that will help to explain how issues can be resolved between the parties, and we've developed a data-rich website called [www.proximityissues.ca](http://www.proximityissues.ca). I would encourage members or your staffs to go and have a look. There's an awful lot of information there on what's going on between communities and railways on proximity issues.

• (1535)

Since its inception in 2004, the website has grown progressively over the years. We've taken 22,000 visits already this year on that particular website. We've also developed a robust dispute resolution protocol, and this is published on the website, if you wish to see it.

We hope all of this material will be helpful to the Canadian Transportation Agency when it begins its job of developing the guidelines that are called for under the provisions of this act.

Let me stop there, Mr. Chairman. I've left a copy of this document, which is the latest MOU progress report, with the clerk. If you are interested, you can distribute it to committee members afterwards.

We think there are a number of key advantages to the approach we've taken in working over the last two or three years, some of which are very clear already. The agreement we have is encouraging more effective and efficient land use; it's providing long-term cost savings in the resources required to deal with proximities over time; it has reduced land use incompatibilities between railways and adjacent land use, and helped the land planning process; and it has reduced noise and vibration complaints in a number of jurisdictions across the country. A good example is Gatineau. Another is Oakville. There are a number of examples we could give you from across the country.

It is also having an ancillary benefit on public safety, because in addition to talking about proximity issues, it provides an opportunity to talk about issues such as trespass and level-crossing safety, particularly in areas adjacent to schools.

Suffice it to say that we think there have been tangible benefits, and I should say, Mr. Chairman, that we are continuing to work with the FCM and others to advance the MOU, as we go forward.

In the very near future we hope to be in a position to publish a comprehensive draft of noise emissions guidelines and a land use guideline. We're in the final stages of preparing this document. It's been the subject of an awful lot of research and technical study over the last couple of years. It is now before the MOU steering committee for their consideration. I hope we'll be able to make it available to committee and other interested parties in the very near future.

I will stop there, Mr. Chair, and thank you very much for taking the time.

Just to conclude, we are in favour of the noise provisions in Bill C-11. We believe we need this kind of regulatory framework to work within, but we would very much like to continue the kinds of approaches we've been working on with FCM and others. We believe the best solution to this is at the local level, getting the parties involved with each other.

Thank you.

**The Chair:** Thank you, Mr. Mackay.

Monsieur Mongeau.

**Mr. Claude Mongeau (Executive Vice-President and Chief Financial Officer, Canadian National Railway Company):** Thank you, Mr. Chairman.

I'm pleased to be here to address the committee.

[*Translation*]

I'm delighted to be here today to meet with committee members. I will be speaking in English, but I will be happy to answer your questions in either English or French following my presentation.

• (1540)

[*English*]

If I could, I'd like to say a few words about the CTA process, about the state of the rail industry, and also give you the details of the comments that we have about Bill C-11 as it stands today. I think having a sense of the process and the state of the rail industry provides good context through understanding to help you make your policy decisions in the right way.

It was about ten years ago that the current legislation of the CTA was put in place. The previous CTA act of 1996 was put forward with a view to bringing commercial forces and an agenda of change to the rail industry, and it's been quite a successful process. The previous legislation introduced, for instance, more streamlined rules for the abandonment and the transfer of lines. It created an opportunity for the mainline carriers in Canada, CN and CP, to significantly improve their cost structure, but at the same time it created a vibrant short-line industry.

There were a number of other commercial initiatives in the previous legislation that have paid dividends in terms of the improvement of the rail industry over the last ten years. At about the same time, the Government of Canada also decided to privatize CN, which was also a very bold agenda of change. That has also been a remarkable transformation, which I believe improved the rail system in Canada to a great degree.

I think the federal government and your predecessors as members of the transport committee should be proud of where we stand today in the rail industry. CN has transformed itself from a laggard railroad ten years ago to a leading railroad in the North American industry. CP Limited has created CP Rail, which is today a focused, lean railroad serving all of Canada. I invite you to look at the hard facts, because too often you're hearing your constituency talk about various specific points of concerns or issues they have with the railway, but not often enough do we hear the broad picture about where the rail industry is and the progress that's been made over the last ten years.

Today the service is better than it's ever been. If I take CN's example, for instance, our transit time and the reliability with which we achieve our transit time has improved by more than 50% over the last ten years. We went from quoting a service, for instance, from Edmonton to Chicago, which was a week to ten days; today we measure our service one trip planned at a time, and our service from Edmonton to Chicago is 102 hours, which is four days, and we achieve it more than 90% of the time.

Efficiency has improved dramatically through cost reductions, through initiatives on asset utilization. For instance, today CN has 800 fewer locomotives to carry more business than it did ten years ago. With efficiency comes the ability to lower rates and share productivity with the shippers, our customers. Rates are lower today than they were ten years ago. Grain rates, I mentioned to your colleagues in the agriculture committee, as one example, are 35% lower in Canada than they are just south of the border in the U.S.

Safety has also improved dramatically. I'm proud to say that the two Canadian railroads today are by far the safest railroads in North America. We are 40% safer than our four peers in the industry, objectively and consistently measured using the same metric. I know it's a topic of interest and I know it's an area we have to continue to make progress on, but the facts are that the two railroads in Canada are the safest in North America. Of course we're also a lot more profitable, and that's a good thing. With profit comes the ability to invest, and we are a very capital-intensive business. CN this year will invest \$1.6 billion back into its plants.

So I think it's fair to say, and I'm a bit biased, we have the best rail system in the world, and we should be proud of that. It's 100% privately funded, and it's a key asset for Canada in terms of transportation for a trading nation.

In terms of the CTA review process, it brings a lot of challenges for railroads. I'll tell you, we're a very unique business. Very few businesses touch more than 200 ridings, as CN does, and we touch every one of your constituencies. We understand the challenge. We are two of us, and there are many out there that have specific issues and have a lobbying agenda. I think it's very important that you, as members of Parliament, relay those constituencies' concerns into policy, but at the same time I think as transport committee members you have to take a balanced view and you have to focus on what's right for the transportation sector.

• (1545)

I think the keeping of that balanced view is very important as you review some of the provisions of Bill C-11. I will tell you from the outset that we are in general agreement with the bill.

We agree, for instance, on the role of the agency for mediation, whether it's for passenger issues or for noise. We also agree on the public interest review for mergers that the minister and Parliament should have in case of transactions. We agree on provisions such as the setting of a list for urban area sidings and spurs.

We agree with the broad goals; we have issues with the devil that is in the details, and we believe that in a certain number of areas the bill goes too far and has risks you should consider very carefully.

On noise, for instance, Cliff gave you a good outline. But there are a lot of efforts. Things can improve, but it's not as though we're sitting still and trying to be good neighbours. Often the issues are land use issues. It's about having harmonious co-habitation. When the residential areas are too close to our rail lines, the proximity creates unavoidable difficulties. The reality is we have a steel rail technology that's outdoors. It's a 24-hour operation and it creates noise.

We have to find ways to address that noise, and the fact that there is a court of appeal and a recourse to the agency with powers to enforce specific mitigation is something we agree with. We would very seriously, though, caution you against changing the wording on some of the criteria.

For instance, "unreasonable noise" is the right test. The notion of having the "least noise" approach is very difficult to manage. Least noise would be a rubber railroad, or it would mean taking the yards out of town altogether.

I think you should give a chance to this new system. Nothing exists today. I think the standard is the right one and that the agency has the power and expertise to address issues going forward.

On passenger and commuter rail provisions, we have some concerns too. We agree with the notion that the passenger or commuter could have the right to go to the agency to settle issues with the railroad, but I take exception to some of the comments I read from the transcript of my colleagues from GO Transit, AMT, and West Coast Express. The impression that CN or that the railroads are gouging commuters or passengers is simply not true. The reality is that in most instances—and there are exceptions, but in most instances—we have a fair approach to those issues.

I'll give you a few examples to explain to you where we have the most difficulty. The most difficulty comes with the notion of setting the rate on the basis of the net book value of our assets.

We agree with the concept that the agency could set the rate and also agree with the concept that the agency could set the rate with a view to the public interest and that the public interest includes a notion that does not necessarily address fair market value or highest best use. But to go as far as setting the policy on net book value would be a big mistake.

I'll give you an example from Quebec of an agreement I just recently personally negotiated with the AMT. It's for the Deux Montagnes line that goes into Montreal through the Mount Royal tunnel. The value of the land on which this railroad sits, as it is assessed by municipal authorities, is \$60 million across the fence.

If we were charging or if the AMT were paying the CTA cost of capital on the value that is being assessed by municipalities, the access fee would be \$5 million per year. I can tell you that the AMT does not pay half of that.

If they were to pay on the basis of net book value, the amount they would pay would be near zero. It would be a fraction of what they pay today, and there's a very simple reason for that. Net book value is an historical concept. The land we own at CN for this property was purchased in 1912. CN paid, in 1912, \$225,000 for the land. That's our book value. If you applied the 8% on that \$225,000, you would get thousands of dollars for the use of something that municipalities value at \$60 million and tax us on using as a basis that same \$60 million.

• (1550)

I know a lot of you have experience in the world of the municipal sector. How would you like it if railroads were paying their tax bills on the basis of historical net book value? That concept would not fly a minute, because it is just not a fair concept. So I urge the committee to think about this particular aspect very carefully.

The federal Expropriation Act recognizes the concept of fair market value. The Canada Transportation Act recognizes the concept of net salvage value if a line is to be sold to a government. The notion that net book value at historical prices from the beginning of the last century would guide the rate-setting is just not the right concept. It's not a fair one and it's not one I would encourage the committee to endorse. In my view, net salvage value would not only be more consistent with the current CTA, it would also be a lot fairer and would give a lot of leeway for the agency to decide in the matter with a view to what the public interest is.

I think you should review this carefully, because the devil is in the details. I think at net book value the provisions themselves ultimately will not succeed; they would be open to challenge as unfair expropriation.

So there is a delicate balance. We agree with the concept that a commuter agency should have the right to go to the agency for recourse, but it should not be done on an artificial measure such as historical book value, because it just doesn't work.

Members of the committee, as you can see, we agree with many of the things that are in the bill. We are asking you to consider a few

areas that could be improved and we urge caution and balance in your views about the state of the rail industry.

I'm open for questions with my colleague here.

**The Chair:** Thank you very much.

Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you, Mr. Chairman, and thank you, Mr. Mackay and Monsieur Mongeau.

Let me go right to the question of net salvage value and net book value. Is it possible, for the sake of the committee, Monsieur Mongeau, that you could give us some kind of written brief that explains in more detail the merits of this question? It's well-established in common law and I think in civil law traditions that there is no expropriation without compensation. There's all kinds of judicial recourse available to those who feel they have been expropriated—not that we're trying to make litigating lawyers richer in this country. It would be important to get a brief to illustrate the merits of shifting from net book to net salvage as you've indicated.

I'll maybe table that, Mr. Chairman, as a suggestion, so that all of us understand the merits of moving from one to the other.

**Mr. Claude Mongeau:** We would be happy to do so, Mr. McGuinty.

The concept is very simple. The land portion, which is often the core issue for access, is at historical values. Railroads were built in the 1900s. The value of a three-storey house in Montreal 100 years ago was \$10,000. If you had to do rent control, would you do rent control on \$10,000 for your grandmother, who has owned the house for 100 years, and do it on \$400,000 for the new property you just bought? It just doesn't work.

We're looking for a way for the agency to have the proper facts to make a decision that is fair to the commuter and in the public interest. We're not looking to get replacement value. We're not looking to get fair market values that are grossed up for highest best use. We are looking for something that's sensible.

**Mr. David McGuinty:** Mr. Mackay, let me go back to a couple of comments on the noise issue.

My recollection is that we've had a number of issues raised around noise. One is sanctionability for failure to comply and what will be made available to the agency. Two is the enforcement of municipal by-laws. Three is the reasonableness test versus a decibel test. Four is that we're going to count on the CTA to actually devise and backfill the guidelines for dispute resolution. Isn't that right?

That's a big step already, I think, as you rightly indicated, that we're taking dispute resolution into the CTA. It's a very big step, post Supreme Court of Ontario decision.

Can you just help us understand here? You've done some wonderful work, I hear, with the FCM and the Canadian Association of Municipal Administrators. You have a flexible but formal dispute mechanism protocol on your website. Do you think we should be going further in this bill to try to backfill more of the bill, to prescribe more clearly for the CTA how this dispute resolution should occur, as opposed to giving them the discretion to find the guidelines?

• (1555)

**Mr. Cliff Mackay:** In a nutshell, I don't believe you need to go further, for two or three reasons. The first is that we've already developed some experience on how to make this work, and it's starting to work well. The bill already enjoins the CTA to put together its procedures to start at the local level and work up, and there's already some good practice out there that will help.

Second, the CTA has a very, very long history in its various incarnations—it wasn't always the CTA, but in its various incarnations over the years—of coming up with procedural and regulatory approaches on dispute areas in transportation. So there's a highly developed body of expertise in the agency itself, and I'm not sure, if parliamentarians tried to second-guess that expertise, whether it would add much value, frankly.

The third point I would make to you is that it's extremely important that there be consistency in the approach to noise management across the country. My colleague mentioned that CN touches 200 constituencies in this country, and if you add the short lines in and CPR, you touch almost every constituency in the country. There are a few exceptions, but not a lot. And if we attempted to manage noise by enforcing municipal bylaws and that sort of a patchwork approach, we would rapidly do major damage to the economic efficiency of the country, and frankly we would probably be very unfair in our applications across the country.

I would argue very strongly that it's in the national interest to take an approach that allows for consistency in the way we manage noise across the whole network. We run very, very big risks if we don't do that.

**Mr. David McGuinty:** That takes care of the bylaw question. Let's go back to the reasonableness test versus decibels.

You would agree that whether the trains are running through 200 ridings or all 308, there is a consistent feature among all those: we all have the same ears and the same hearing systems. Would you agree we should be looking to move from a reasonableness test to a decibel-based test?

**Mr. Cliff Mackay:** I think if you give the guidance to the agency that the test is "reasonableness", that test will translate itself into

technical numbers over time. I'm not at liberty today, unfortunately, because the technical guidelines haven't been approved yet by the committee under the MOU, but when we get a chance to circulate it you will find that as a matter of pragmatism many of these things have been converted into measurable technical standards; for example, set-back distances in various kinds of operational environments, time and decibel numbers in terms of the density of population where things are being operated, and those sorts of things.

Just as a matter of pragmatism, when you get to the point where you are actually running operations, you pretty much have to do that anyway, sir. The problem with enshrining it in a legislative context is that you build inflexibility into the system that becomes very difficult to manage over time, because technologies change, the nature of operations changes, and—one of the biggest things we've been dealing with, and I think it was mentioned by some of our colleagues the other day—the pace and nature of the development, particularly in urban areas, is changing dramatically. That is going to shift, over time, the difficulties in the management of noise.

If you try to set a baseline that is locked in legislation, I think you're going to take a lot of flexibility out of the system. I'm not sure that's in the best interests of the public.

**Mr. David McGuinty:** To help us understand as members of the committee, then, Mr. Mackay, are we wrong in assuming that so many other jurisdictions have graduated from a reasonableness test to a decibel-based test? Is the European Union now not looking at a 26-country standard for noise levels for their European train systems?

**Mr. Cliff Mackay:** Yes, they are, but if you look at North America, it's very rare that you find those sorts of systems. Even in Europe, while they're looking at those sorts of standards, they are still very much recognizing the need to be flexible, depending on what part of Europe you're talking about and the nature of the rail operation and the nature of the urban interface they're dealing with.

**Mr. David McGuinty:** Thank you.

**The Chair:** Mr. Carrier.

[Translation]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Good day, gentlemen.

Regarding the noise issue, I was interested to hear you say that you agreed with the noise standard in the bill. Since you're responsible for causing the noise, one would have thought that you might not be so ready to admit that there is a noise problem. All of the witnesses and the general public as well have complaints about rail-related noise. Most have told us that the definition of "unreasonable noise" is not adequate enough to reassure the public. That's why some talk about "the "least noise" approach. However, Mr. Mongeau said that this could potentially create a problem since it can mean both "no noise" as well as "the least noise" possible.

As Mr. McGuinty noted, many people have asked us why we don't set standards in terms of decibels, as is the case in most municipalities and countries, in order to keep noise levels to a minimum.

With an eye to improving this bill, what kind of standard would you like to see?

• (1600)

**Mr. Claude Mongeau:** At present, there is no possible recourse with the agency. We're going from one system where there is no possible recourse to one in which the agency will have full powers to examine such matters and mediate the situation, so that a decision can be made and implemented by the rail companies.

This represents a major step forward. Rail companies are on board with this approach. In my opinion, the "unreasonable noise" standard is the only one that is feasible, from a pragmatic standpoint. Barring economic constraints or parameters, the "least noise" approach can only bring us closer to the "no noise at all" criterion.

The main issues in terms of noise are people living close to railroads and site development. Some provinces, Ontario in particular, have a much more formal process in place whereby railways can intervene prior to residential development construction and argue in favour of setbacks. In my view, this is the best way of handling these problems.

Quebec does not have a similar law on the books. No prior indication is given that a residential development is being planned. This only becomes apparent when construction begins. Unfortunately, houses are built much too close to the rail lines and inevitably, over time, residents complain about the noise. To my way of thinking, giving the agency the power to look into the situation and to sanction rail companies for unreasonable noise levels is a positive step. And that's why I recommend that you adopt this bill. We'll be able to put the law to the test and to fine tune it as needed.

**Mr. Robert Carrier:** A similar definition might give the impression that you have some bargaining power with the Agency. If we keep the word "unreasonable", who will be providing a definition? In your case, it's a certain noise threshold, because you have no choice, whereas to others, a different definition may apply. By forcing you to change your operating methods, we'd be back in the same situation where the most convincing arguments and negotiating team would win the day. The Agency would be bound by a definition that would tie its hands.

[English]

**Mr. Cliff Mackay:** The process the CTA goes through to come to these judgments is exhaustive. I've been involved in a number of

them personally. They go out, hold public hearings, see witnesses; they do all of those sorts of things before they arrive at a judgment. And it is a judgment: it's a very quasi-judicial type of process. They can order us to do things, and they do quite often.

The advantage of that approach, as opposed to a number, is that it allows a process of analysis to be gone through whereby you can come to a reasonable judgment as to what is reasonable from a noise management point of view and what is not. It is an entirely different situation, for example, if you're dealing with an issue in a highly dense urban area, as opposed to where there's been condo development all around the proximity of the tracks and whatnot, or where you're dealing with an issue that is perhaps a yard operation somewhat adjacent to an urban setting but quite a bit further off, or where you're dealing with an issue in more of a rural environment.

It's very difficult for me to conceive of how anyone could reasonably set a number in all of the different areas and permutations and combinations. I think what is being proposed is by far the most fair and the most effective way to deal with these issues.

I need to reinforce again, sir, that it is our intention in managing noise to get before the CTA as few times as humanly possible. It is not in our best interests to have bad community relations. We want to have good community relations, and noise and other proximity issues, and working with our colleagues at FCM and others, is the right way to go. So I would strongly urge the committee not to impose too prescriptive an approach on decibels and noise, because I think you will find very quickly that it becomes very unmanageable across the country.

• (1605)

**The Chair:** Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** How are orders from the CTA enforced? I know, for example, that there has been an increase in accidents. Between 2002 and 2004, there were 11.67 accidents per million train miles, but by 2005 that number of accidents increased to 13.04, so there seems to have been a percentage increase of 18%.

I don't know precisely what kind of investment you're making in keeping our trains safe, and I'm really quite concerned. Perhaps it's because of train maintenance, or perhaps it's because the trains are longer or the weight is higher—I don't know—or the speed is higher when you're doing a crossing or when there's a mountainous situation. I'm really quite concerned as this connects to environmental degradation because of sodium hydroxide being dumped into a river, for example, in B.C.

How would you enforce CTA orders, because it's not clear from this?

**Mr. Cliff Mackay:** Let me try to answer you. You've asked two or three questions there.



Let me first clarify the role of the CTA. The CTA is essentially the regulator under the Canada Transportation Act, which is essentially the act that regulates our commercial relationships and also areas such as accessibility, disabled accessibility, and those sorts of things. There's a separate piece of legislation that regulates us for safety, which is called the Railway Safety Act. It is operated in an entirely different context. The CTA does not involve itself, in normal circumstances, in safety regulatory matters.

But how does the CTA enforce its rulings? It has the legislated power to do so and can order us and has ordered us in the past to do a number of things. And that has strength. They also have a number of sanctions they can impose in terms of the way in which licences are issued in the country and those sorts of things. So they have a number of remedies, and frankly, you would defy a CTA order, if you were a company operating in the transportation system in Canada, at your peril. They have significant powers.

**Mr. Claude Mongeau:** On the issue of safety, 2005 was a year when the number of incidents was higher, so 2005 was not a good year from a safety standpoint. The number of incidents, though, is not telling the whole story. In the case of CN, 2005 was a mixture of two very significant, unfortunate, and dramatic accidents, one in Wabamun, one in the Cheakamus River, which you mentioned, and also a number of small incidents, which count in the count of incidents but sometimes involve one wheel or one small matter.

When you look at the long-term trend of the safety performance of both CN and CP, it has been one of consistent improvement over the last several years. This year alone, on the TSB measure, we are down more than 20% year over year, which proves that 2005 was a bit of an oddity.

Now, 2005 was a very unfortunate year in terms of very significant accidents that cost CN hundreds of millions of dollars. The Wabamun accident alone cost CN and its insurers more than \$100 million. You can rest assured that CN does not have any business interest in seeing any more of those accidents. Unfortunately, sometimes rails break, and if they break right beside a lake, sometimes it does cause environmental damage. On balance, though, rail is the safest mode. That's why some of those dangerous products are there in the first place.

• (1610)

**Mr. Cliff Mackay:** Just to give you an update, the Transportation Safety Board publishes a monthly report on safety for the industry. In its most recent numbers, which were for September of this year, the accidents per million train miles were 11.7, so we're down below the five-year moving average. It's never good enough, but we're very encouraged that we're back on track and are moving in the right direction: we're trending down again.

**Ms. Olivia Chow:** On the whole notion of what's reasonable and what's not reasonable, do you have any sets of guidelines to say that in a dense urban area such as you talked about—for example, downtown Toronto, which is surrounded by condominiums that happen to be in my riding—you would have a certain noise level that says, “Since we were there before you moved in, this is the kind of noise level we believe is reasonable”, whereas in a smaller community, where the houses are very close to the track, there would be a different standard? Do you in fact have these kinds of

standards so that you can define what “reasonable” and “unreasonable” would be in this bill?

**Mr. Cliff Mackay:** The answer is that this is exactly what we've been doing under the MOU for the last few years. We have undertaken a number of very extensive technical studies to look at what reasonable standards for setback are, what reasonable standards are for the kinds of operations. It's not in the document you have today. As I said in my remarks, we will be publishing that document in the near future, because it is part of the guidance we intend to give to our friends in the municipalities and ourselves to manage issues at the local level.

It varies by the kind of rail operation you're talking about. Is it a mainline? Is it a subsidiary line? Is it a yard work? Is it a siding? There are a whole bunch of different factors that go into it.

I don't want to bore everybody in this room, but the railway business is a complicated business. I know it looks simple when you watch a train go down the road, but it's a lot more complicated than that.

**Ms. Olivia Chow:** Is there a timeframe for when you might publish this?

**Mr. Cliff Mackay:** We hope the steering committee will deal with it within the next month or so. As I say, we're not characterizing these things as cast in concrete, because we just don't believe that's the right way to manage the issue. You should manage the issue at the local level in the context of the local conditions you're dealing with. What we're trying to do is provide guidance, so that everyone can go to some benchmarks and say, “If we're generally in this ballpark, then we should be pointed in the right direction.”

**The Chair:** Mr. Jean.

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

I thought I was in second place today. But thanks, Mr. Passed. Yes, I have some questions, Mr. Chair.

The first one is: what would your reaction be to adopting, in essence, the noise emission standards that Europe has in place in many of the major metropolitan centres, as far as decibel levels, etc. are concerned?

**Mr. Cliff Mackay:** One of the big problems we have with parachuting things directly in from Europe is that we just have an extremely different kind of railway system from theirs.

**Mr. Brian Jean:** How?

**Mr. Cliff Mackay:** We're 90% freight and 10% passenger; they're 90% passenger and 10% freight, to start with. We do long haul; we deal with huge distances; we deal with different climatic areas. It's just very difficult to set a standard in an environment like Europe and think it would work in a country like Canada.

**Mr. Brian Jean:** I understand, but my question was not really directed towards the type of freight. Trains make noise no matter what they carry, and they make noise in major metropolitan centres no matter what they carry, but the reality is that Europe and countries around the world have standards set for decibels at night and during the day to ensure people don't suffer from sleep apnea and other major chronic problems caused by noise at night. As far as that goes, even though there are differences in freight and length of travel, the reality is that people live by rail in Europe and they have set standards for noise, fumes, and whistles blowing at two in the morning in shunting yards to make sure people have a reasonable quality of life. How would it be so different in terms of the freight, people, or whatever other criteria you consider necessary?

**Mr. Claude Mongeau:** I'm not familiar with the decibel standards they have in Europe, but I am very familiar with the differences in operating the railway. The railway is a freight railway in North America and it's a very passenger-oriented railway in Europe. The railway is an electrified railway in Europe and it's largely a diesel railroad in North America. In Europe most of the signals and crossings are guarded crossings, so whistling is not an issue. They just do not whistle as much as we do here because as a safety matter the government has paid for crossings, and the crossings are protected in most instances, other than in the most rural areas. They have a fundamentally different railroad environment.

I believe that what we have to deal with here are the particulars of our land use in North America—the particulars of our railroad technology, the particulars of our community. We have to make efforts to deal with the Federation of Canadian Municipalities to come to an understanding as to how we can deal with these issues as good neighbours. As you're contemplating it, this law provides an additional safety measure so that you would ultimately have recourse to the agency that has expertise in looking not only at the railroad operations issue but also the noise issue. You have to have both.

If you understand the flexibility that a railroad might have to do things differently, maybe the agency will be a little tougher in assessing what's reasonable or not reasonable. It's not always just the noise; it's about what the railroad could do about it. If the railroad has no choice, if we're talking about a mainline aspect, if it's right there and there's no other way for the railroad to service its customers and meet its common-carrier obligation without shunting cars at certain hours of the day, then the agency, I would hope, would take that into account in setting what's reasonable. I believe the approach and the law you have in front of you will go a long way to address those issues.

• (1615)

**Mr. Brian Jean:** You are aware, of course, of the technology that's available to keep shunting quiet in yards in Europe. I know there is a cost to technology, but have you looked at the technology that's available now in the marketplace to alleviate much of the noise that happens at late hours? For instance, we've heard from witnesses here that it's at two, three, or four o'clock in the morning, and very

often yards are going all night. People find it very difficult to sleep, and they cite many problems. As you know, many groups across Canada, in Quebec, and in many other jurisdictions have been formed as a result of railway noise.

**Mr. Claude Mongeau:** I understand that, Mr. Jean. I will tell you as a railroad operator that we operate a network. We have shippers on the one side who would like to have the lowest possible transit time and the best possible service, and we have people who would like us not to operate at night and not to operate on the weekends. The reality is that if you want to bring a movement from Halifax to Chicago in four days, at some point during the journey you're going to have to be operating your railroad at night. That's just the reality.

To your point, from a shunting standpoint our railroad operation is fundamentally different from what it is in Europe. Europe has flat switching, and they have much more of a unit train operation. They do very few hump operations the way we do. The coupling mechanism and the entire fleet of rolling stock in Europe are fundamentally different.

Would it be possible to have roller bearings, or different kinds of bogeys or coupling mechanisms? Absolutely, but we're talking about hundreds of thousands of cars and billions of dollars of investments that cannot be made over time to replicate what some other countries have done for different reasons. I think we have to be pragmatic; I think we have to address those issues, and we have to look at land use as much as we look at noise. Railroads were often there long before residential areas caught up to them. We have to have a forum to address issues with experts who understand rail and noise issues. I think that's what your bill will do.

**Mr. Brian Jean:** I understand the compromise that's necessary.

What about traffic congestion? I'll tell you about one particular place where I was this summer, looking at congestion and some of the major problems we're going to have in the future with transportation, and that is in the Lower Mainland in British Columbia. It is a huge issue. Quite frankly, I was appalled by what's taking place there in terms of the crossings and the traffic congestion and the quality of life of citizens, not to mention the GHGs and all the other environmental hazards that are put off as a result of, quite frankly, trains congesting the railway and congesting roads with crossings. In Langley in particular, with the infrastructure deficit that we've had for such a time, we have to look at innovations.

What are your comments as far as hours of operation, first?

Second, I understand there's a way around the middle of Langley in particular through an alternative track. I'd like your comments on that too. I know they are privately owned, but can there not be some sort of compromise between owners of tracks to have some sort of avoidance of these traffic congestion problems?

• (1620)

**Mr. Cliff Mackay:** Let me speak specifically to Langley.

The city of Langley is probably the poster boy in Canada of conflict between rapid urban development and rapid growth of rail services happening at the same time. It is a very serious problem, and it's one that we've been focused on for quite some time.

Our view is that what we need to do in Langley—and we need to do it as quickly as is humanly possible—is to get grade separation between the railway main line and the main roads where the congestion is currently taking place. It is the only long-term solution. Experts have already looked at the idea of that diverting line. The costs are astronomical. The inefficiency losses are astronomical. Because of our customers and because of the growth in Asia-Pacific trade, there's no scenario that we can see in which the traffic pressure is not going to go up in that part of the world. We absolutely need to separate traffic between vehicles and trains, and we need to do it quickly.

There are some modest allocations in the current Pacific gateway. We would urge the members of this committee to urge the government to increase those allocations on an urgent basis and to make these projects a high priority.

**Mr. Claude Mongeau:** Can I give you the good news, Mr. Chairman? As the CFO of CN, I know that next year CN will send \$650 million of income tax to the federal government for the first time in its private history. Some of that money should go back to some of these projects to address crossing issues, because the reality of the booming Asian trade is not going to disappear, and if we want the Pacific gateway—if we want the Port of Vancouver to try—we'll have to find ways for the railroad infrastructure to be able to address that volume.

The solution is for the government to step in with infrastructure and do crossings and grade separation in the same way that the government does roads and other infrastructure for transportation if goods have to go on trucks.

**The Chair:** Mr. Hubbard is next.

**Hon. Charles Hubbard (Miramichi, Lib.):** Thank you, Mr. Chair.

I'm glad to hear that the income tax is going to come. I'm rather surprised that you give that figure, because I would have assumed that you've been paying income tax over the last eight or ten years.

**Mr. Claude Mongeau:** Actually CN lost so much money previously, when it was a crown corporation, that we had a tax shield for those ten years, but next year the price of success is coming at us, and that is very good news for the federal government.

**Hon. Charles Hubbard:** It's rather surprising that you can carry so much old debt that you're able to do that.

It brings me to my point in terms of this so-called net book value. In this country, in terms of the government's direction, we want to see more effort put toward inner city transit, which would be a major improvement in terms of our environment. When you look at the value of CN or CP or most of the railways and you put the different values that are there, in many cases the land that you acquired you got for nothing. Is that correct?

**Mr. Claude Mongeau:** If you go back, in the west that is true.

**Hon. Charles Hubbard:** You still have it, so I would suggest that in terms of the arrangements you make with light rail, you should be considered more in terms of the cost of having that land, rather than going to some abstract figure that a municipality could be assessing you with. It seems to be rather unfair, at least in terms of what our transit people said, to put it very high. They think you're making a lot of money, which apparently you are doing now, and the evidence said the other day they think they're sort of being ripped off by the very high tariffs that you're charging them for the use of—

**Mr. Claude Mongeau:** Mr. Hubbard, I read their transcript and I would take exception to the description they made. I would tell you that CN is the predominant railroad for passenger operations, whether it's VIA or commuter. The vast majority of the deals that we have with the commuters were done when CN was owned by the government and operating under the direct authority of the Minister of Transport. I have seen every one of those transactions and I have told you the example of the Deux-Montagnes line; they pay less than half of what market value would call for.

I will tell you, for instance, about the Deux-Montagnes line just to give you a sense of things. They go on 30 kilometres of prime property in the suburbs on Montreal. They go through a five-kilometre tunnel, which is the longest tunnel in North America, and arrive right in the middle of downtown, and we charge them 25¢ per passenger for access. If we were to charge them on net book value, it would be a cent or two. Are you telling me that 25¢ is not a fair amount? It is a very fair amount.

Would the commuter agency like to have an even better deal? I can understand that. Would they like to have recourse to the agency to arbitrate in case we don't agree? I would agree with that. Should the determination be done on historical net book value at the beginning of the century? I think that's just unfair and I don't think it's the proper guideline.

• (1625)

**Hon. Charles Hubbard:** In terms of this legislation, you're concerned with the part of it that talks about how resolutions would come to conflicts between value and cost?

**Mr. Claude Mongeau:** I would make a very simple change. Instead of net book value, I would have net salvage value, which is exactly what the CTA is using today in the case of selling a line.

If you're not careful, it would be advantageous for a railroad to sell the line at net salvage value and get whatever the agency determines that way, as opposed to receiving nothing under net book value. The net book value is not the right standard, not for assets that have historical values that were set at the beginning of the century.

**Hon. Charles Hubbard:** The second major conflict we seem to see between your group and the other presentations we've heard was with noise.

I think the evidence again—which you've probably noticed—was that when particular locations and people in those locations were concerned with noise, they would often try to contact, and when they did make contact, whether verbally or by letter, often there was no response. Was that a true impression that they conveyed to this committee? Do your railways really answer complaints from citizens, or do they simply ignore them? What was your reaction in terms of the evidence we received on the relationship from communities?

**Mr. Claude Mongeau:** You will always find areas where problems arise, and I don't dispute the testimonies of the people who are feeling the brunt of the noise in certain areas, but I would tell you that by and large, we are good neighbours in most of the communities that we operate in.

When we have issues that are very difficult and protracted and problems that do not get solved, they have occurred because residential developments have encroached so much on our property that the noise becomes unbearable. Often we were not even consulted in how the residential developments were put in place. We have very few problems in Ontario because the setback rules are a lot more sound in terms of the way it's done; we have a lot of problems in Quebec because, unfortunately, some developments are right beside the railway operations.

**Hon. Charles Hubbard:** My concern, though, on hearing the evidence was that there was no reply. Would that be true?

**The Chair:** Could you give a brief reply, please?

**Mr. Cliff Mackay:** I suspect it has been true in certain cases. Having said that, I think if you do an analysis of the hotspots for noise across the country, you'll find that most of them are in the B.C. Lower Mainland or in Quebec.

We have more work to do. I'm not denying that for a moment, in terms of trying to make some of these conflict resolution mechanisms that we've been talking about work consistently across the country, but there's another party at the table, and I think it needs to be recognized.

Frankly, one of the reasons we have some of the problems in some of those particular areas in the country is that land-use planning has not done as good a job as it should have, and we need to all work on these problems. Just to give you a number, CN receives somewhere between 40 and 60 noise complaints a month through their 1-800 number, and CP about half that, but we've got about 15 or 20 community advisory services working already across the country, and we hope to have a heck of a lot more before we're finished.

**The Chair:** Madame Picard.

[*Translation*]

**Ms. Pauline Picard (Drummond, BQ):** Mr. Chairman, you have to excuse me because I'm not a regular member of this committee. I'm substituting for my colleague. However, I'm familiar with railways because I live in Drummondville, in the heart of Quebec. Freight and passenger trains from New Brunswick travel through the area on their way to Toronto.

I have two questions for you concerning two problems. Drummondville has 70,000 residents. Back when the city was first built, no one ever dreamed that its population would grow this much. Regardless, trains pass right through the city centre, which poses a problem.

A rural municipality near Drummondville had complained a great deal about the noise caused by train whistles. The municipality had long complained about this problem and ultimately reached an agreement with CN. The company upgraded the level crossings at rural concession roads. However, CN has not been able to meet the ever-growing demands of Transport Canada to ensure safety at level crossings.

The new legislation to deal with conflicts of interest may establish a mechanism for resolving disputes between CN and Transport Canada. That's the first problem we see.

The second problem concerns the downtown area of Drummondville. Freight trains are becoming increasingly longer and a railway siding is needed. Can you imagine a railway siding right in the downtown core, with all the noise and congestion that this would entail? A train cannot remain idle for half an hour or three quarters of an hour in a downtown or urban area without creating an impossible situation. A portion of the siding should be built in a rural area. CN has spent four million dollars on feasibility studies. This could have been an option, and Transport Canada made 14 recommendations. CN responded to these 14 recommendations and the idea was again rejected. CN maintained that it had no other choice but to build the railway siding right in the heart of the city.

I'm not sure what is going on between CN and Transport Canada. This is the Transport Committee, but there are a number of disputes with Transport Canada that remain unresolved.

• (1630)

**Mr. Claude Mongeau:** I'm not familiar with this particular case, but the problem of the noise generated by train whistles is a good example. Discussions are taking place and the committee is looking into safety issues. By law in Canada, trains must blow their whistles at level crossings. Railways must comply with this operational requirement and we have no quarrel with this stipulation. However, sounding the whistle is not a rail company requirement.

**Ms. Pauline Picard:** You've invested money to improve level crossings to ensure passenger safety. I don't understand why permission hasn't been granted.

[English]

**Mr. Cliff Mackay:** I'll look into this, but there is a procedure—and I'm sure the officials in Drummondville are aware of this—whereby you can apply for a variance on the safety regulations, so that whistles do not have to be sounded. It requires the specific approval of Transport Canada to do that, and they do a special study. Because if they feel that will create a public safety problem, then they will not allow us to not do it, and then we have no choice. It's a law: we must blow the whistle.

I'll happily follow up on Drummondville and see if we can find out more and I'll get back to your office.

[Translation]

**Ms. Pauline Picard:** I see. Thank you very much.

[English]

**The Chair:** Thank you.

Mr. Fast.

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

My thanks to both of you for attending today. My question is going to be directed mostly to Mr. Mongeau.

You've done a wonderful job of defending your record as a company, but I believe it was Mr. Mackay who said the rail business is a complicated business. When you have a complicated business, you also need sophisticated ways of dealing with the concerns of residents, with government authorities, and with municipalities. Unfortunately, I think you're in a position where you haven't yet convinced Canadians. In fact, I think Canadians may have lost confidence in your ability to respond in a way that's accountable.

I can only relate to you my own experience, coming from the west coast. We have now had a number of very serious derailments, one of which caused serious environmental degradation and another one of which ended up in the loss of two human lives. Obviously none of us ever wants to see that happen again.

If it was only the safety issue and it was being addressed adequately, I think most Canadians would understand that there are hazards in any kind of transportation. But I look first of all at noise complaints. We had ordinary Canadian residents before us a couple of meetings ago, and we had municipalities in front of us. The general consensus was that the way the railway companies are responding to noise complaints is just not adequate.

The consultation process and the dispute resolution process haven't worked for them. We heard this from residents of New Westminster, of the city of Richmond. We heard this from mayors from British Columbia and from Quebec. That concerns me.

And then we move over to the whole issue of the net book value discussion that we just had. I know CN wasn't involved in the West Coast Express issue, but the general public's understanding of that—and certainly the provincial government's understanding and the local government's understanding—was that CP held the public up for ransom in order to get commuter rail in. Again, it's just a black mark on the industry.

Of course, we then get to the whole safety issue. What puzzles me with respect to CN was that we had these two serious derailments in British Columbia, we had one in Alberta as well, and the minister took a number of actions. He asked you to take corrective action. There was monitoring, direct enforcement, and a series of targeted inspections that took place. And then it all culminated on July 24, when the minister issued a ministerial order that CN had to take the necessary corrective measures to address the deficiencies.

Had that been addressed immediately, I suppose we could say there was at least some good faith there. In fact, the action that CN took was to appeal the minister's order. So you can understand how the public reacts to that and how we, as a committee, would react to that.

To your credit, you submitted an action plan on, I believe, August 14, and it is with the minister right now. I'm assuming you're going to follow through on that action plan. But the point I'm making is that the industry needs to have its credibility restored.

My experience with local government for fourteen years, and now at this level of government, is that typically regulation only happens as a response to some level of non-compliance with publicly accepted norms and behaviour. This bill is presumably a response to a lack of conformity to what the public generally and government in particular expect of corporate citizens.

I would ask you to respond. You're in the hot seat. You knew this was coming. There's a motion that may be coming forward later today requesting an in-depth inquiry into safety, and it does focus on CN in particular. Anything you can do to provide this committee with some confidence that we're moving in the right direction on all of those issues....

●(1635)

**Mr. Claude Mongeau:** Can we improve on community relations? Absolutely. Is it a difficult business to be in from a community relations standpoint, though? The reality, as I said, is that it is. Railroads and communities have a love-hate relationship. It goes back historically. It's a challenge always for us to raise up and be more sophisticated in how we do this. We'd be happy to take some of your advice to improve on that score.

I will tell you, though, that part of the issue why you're hearing so many of these concerns is a set timeline for a review of the law. The law is being reviewed as a matter of legislative requirement. This review has been going on for the last five years, so people are lobbying you to make changes to suit their concerns.

On the issue of the noise or the dispute resolution, for instance, the fact is that there is no dispute resolution today. That's a disconnect in the law and you're fixing that.

West Coast Express is an unfortunate file. It's CP in this case, not CN, but the reality is that there was also no recourse at all for West Coast Express at that time. They could not go through FOA and they could not go to the agency. They had no recourse because of a disconnect in the law. Now the law not only allows them to go FOA if they want to, but if you pass this bill, they can soon go to the agency directly to solve any matter.

All we're saying is that we agree with this. But in giving guidelines to the agency, please tell them to do what's in the public interest, what's fair and in the interest of Canada, and not to do it in terms of an artificial historical book value, which would just depress revenues and create more problems than it would solve over the long term.

On your issue of safety, Mr. Fast, our commitment to safety is without any condition at CN. It is absolute. It's a matter of business sense. We are more focused on safety, particularly these days, given the problems that we've had, than we are on any other matter.

We have had very unfortunate accidents, but I think you should be able to recognize that when people are vacationing in the middle of August and you have a rail break that causes a train to dump 800,000 litres of oil in a lake, you have a massive problem. From there, it is just very difficult to manage under any circumstances.

Could we do better? Are there ways to minimize the impact? We're looking for advice on this, but the fact is that if this derailment had occurred only 200 metres earlier, it would have been a very small issue.

The rail break is a problem with the metallurgy of the rail. There's very little you can do except to increase your inspections. At CN, we have increased our inspection frequency by 50% since last year. We do inspections far more than the regulations require in Canada. We are spending \$5 million for a new geometry car. We are focused on safety issues like on a dirty shirt.

Transport Canada is on us every day because they read the political tea leaves. They see the pressure out there. They're listening to you relaying your constituents' concerns, and they're keeping our feet to the fire.

On this particular issue of the section 32 from the minister, we did not appeal the minister's order because we disagree. We wanted time to review the request of the Transport Canada officials. The Transport Canada officials were on vacation for a three- or four-week period at the time when we responded. We have said from the get-go in our response to the minister that we would be willing to sit down and discuss and provide the information that he's looking for, which we have done since then. We believe Transport Canada will be satisfied with what we've done, and we will comply with the order.

We only appealed because we had no way of stopping the clock before the deadline of August 14, which was only twenty or thirty days after we received the order and nobody at Transport Canada was to discuss the matter in detail.

So we're not appealing. We're not trying to hide anything. We're not trying to skirt our responsibility. We take safety very seriously. And as you step back, I think you should be proud to look at the

facts and realize that the two railroads in Canada are the safest railroads in North America. Those are the facts, and we continue to improve.

If I were you, as a committee, I would let the members of Transport Canada, the experts, continue to grill CN. As we speak, we are having road shows on safety in CN.

• (1640)

We have invited Transport Canada to observe those meetings with our field people. They are doing their work, and we will fix the issues and see a better trend in safety performance. The committee should give it some time, and hopefully you'll do your review or study when Transport Canada has done its work and we've responded to the challenge.

**The Chair:** Mr. Scott.

**Hon. Andy Scott (Fredericton, Lib.):** Thank you very much.

Welcome.

You would have received revenues as a result of tariffs for others to use the line when CN was a public entity. Would those revenues have gone back to CN, or would they have been in general revenues?

**Mr. Claude Mongeau:** I said what I said just to give you a sense that railroads.... I take a bit of exception with what the people who came yesterday told this committee. They portrayed us as gouging.

All I'm saying is that for the transactions with VIA, for instance, or the transactions we have with GO Transit, or the transactions that we have with the commuter agency in Montreal, AMT, the vast majority of them were negotiated at a time when CN was a Department of Transport crown corporation.

• (1645)

**Hon. Andy Scott:** Did the revenues go to CN then, or to general revenues?

**Mr. Claude Mongeau:** They would have gone to CN as an entity then.

All I'm saying is that VIA is important. We share the importance of public transit. I've given you specific numbers on one line, for instance. We are very fair. Could it be even better? Would an agency rule slightly more in favour of the passenger/commuter operator? It's possible, but it shouldn't be done on the basis of net book value at historical prices.

**Hon. Andy Scott:** When you were talking about the great deal in Montreal with the five-kilometre tunnel, you identified the tunnel as the longest in North America—

**Mr. Claude Mongeau:** It's the longest in North America.

**Hon. Andy Scott:** —as part of the value. Who paid for the tunnel?

**Mr. Claude Mongeau:** CN paid for the tunnel.

**Hon. Andy Scott:** When it was a public company.

**Mr. Claude Mongeau:** If we were charging for this tunnel, Mr. Scott, there would not be a passenger line at Deux-Montagnes.

**Hon. Andy Scott:** But my point is that you're arguing in favour of a cost that you impose on these users on the backs of a public investment in the asset. That's historically the case.

**Mr. Claude Mongeau:** No. Quite frankly, we want to do transactions with commuter lines that are fair to the commuter and in the public interest. We're not the most sophisticated, as Mr. Fast has said, but I personally negotiated some of these transactions, and we always want to err on the side of doing the right thing.

**Mr. Cliff Mackay:** Mr. Scott, just to make sure the record is clear, I can't recall what the exact number was, but when CN was privatized, the government received a very substantial amount of money into its treasury in that process. That was in consideration of those assets, so the transaction was done.

**Mr. Claude Mongeau:** And even beside that, the reality is that as a matter of good public policy, the price that should be paid for access should be a reasonable price. It shouldn't be replacement value. It shouldn't be full market value. It should be a reasonable price, and the agency can determine that. We would be okay with their decision under all scenarios.

But it shouldn't be done on an artificial historical book value, because in some instances...I'll give you an example. When CN was privatized, all of our eastern assets were written down by \$1.5 billion. Everything we owned in the east, in Toronto, in Montreal, was written down by \$1.5 billion. The value of the land is zero because that was in 1912, as I gave you in an example, and the value of the asset has been written down as part of the privatization. So book value is not the right metric.

**Hon. Andy Scott:** You mentioned \$600 million plus in income tax next year that you'll be paying to the Government of Canada. That must reflect some commercial success. You would want us to take some of that income tax that flows back to us to invest in infrastructure, and I agree that investment in infrastructure is something we hold quite dear here.

At the same time, I think that reflects a commercial success that we, as a committee representing the interests of the public of Canada, have a right to look at and ask what responsibilities the rail line has to meet public interest objectives, in the same way that you would expect us to invest our \$600 million wisely in a way that is supportive to you. I think that cuts both ways in terms of our asking the railways to meet certain standards.

For instance, on health, there has been quite a discussion around the health issues related to noise and so on. Many of the communities that were here spoke to that. They spoke of World Health Organization standards and so on. What research do you have that counters that in terms of the health risks, or is that just a risk you're prepared to have Canadians accept?

**Mr. Claude Mongeau:** Mr. Scott, other than very narrow situations, which are very important and have to be dealt with in a manner that addresses the issues, the railways are very environmentally friendly. We are four times more environmentally friendly than

trucking in terms of emissions. We are four to five times more fuel-efficient. It is a lot safer to put dangerous material on rail than it is on any other mode.

Railroads are 100% privately funded. We're not asking for money. We're operating for the benefit of Canada, and we are a very capital-intensive business. We make a lot of money and that's a good thing, because every year we have to invest substantial sums to maintain that railroad, increase the capacity, and serve our customers.

I hear you on the notion that with success comes responsibility, and we take that very seriously. But at the same time, you would not want to have a law that creates the equivalent of expropriating an asset without due compensation or forcing a railroad to provide a subsidy. The price signals must be right. We agree that the agency, in its wisdom, will make the right decisions and take the public interest into account when they set the rates. You should just not make the mistake of giving them a criterion that binds their hands if the criterion is not the right one.

We will be happy to provide Mr. McGuinty, the chairman, and other members of this committee with all of the details as to why net book value does not work. We don't dispute the cost of capital of the agency if that's what's to be used, we just dispute the base of the assets at historical prices, given that they have existed since the early 1900s.

● (1650)

**The Chair:** Mr. Storseth.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** Thank you very much, Mr. Chairman.

I'll be very interested to see that brief on net book value.

Mr. Mackay, you've been in consultations with the Federation of Canadian Municipalities for some time now. It's my understanding that you're in support of resolution of these issues at the local level.

**Mr. Cliff Mackay:** That's correct.

**Mr. Brian Storseth:** While you were in consultations with the FCM, was the issue of assured safety for those located within a critical distance of the railway discussed? If so, what were the results of that?

**Mr. Cliff Mackay:** We talk to the FCM about safety issues quite routinely. I haven't spent much time with this committee today talking about a number of our safety programs. To give you a couple of examples, we have a very active program called Operation Lifesaver, which specifically tries to educate the public, particularly schoolchildren, as to the dangers of being in and around rail facilities. One of the vehicles we use to get that message out is our relationship with the FCM. There's also a program called Direction 2006 that complements Operation Lifesaver. It is financed by Transport Canada, which has allowed us to be much more aggressive about that program.

The police forces of the two major railways, CN and CPR, are routinely—almost every day—out in the communities supporting our awareness programs in this area. There are a lot of issues, and there is a lot of education to be done. One of the things we're looking at is what more we can do in terms of level crossings, particularly in rural areas.

One of the things we'd very much like to spend more time with the federal government on—and the FCM I think is also involved in this—is what we can do to reduce the number of level crossings and therefore reduce the risk of accidents, particularly in rural areas. There are some parts of the country where because of history and because they just happened willy-nilly over a period of 80, 90, 100 years, we have level crossings all over the place. They're not utilized to any significant degree. We can just do a minor jig in the road system and reduce those risks. There are many, many things we can do in this area.

**Mr. Brian Storseth:** Thank you very much.

Mr. Mongeau, I'd like to ask you a question. We talked about technology from Europe. The parliamentary secretary brought it up, and you kind of dismissed how that technology could be correlated over here. I understand that argument. What I didn't hear from you is whether there is any new technology that CN is looking at to mitigate the factors of noise and safety and the environment.

**Mr. Claude Mongeau:** Absolutely. Yes, there is. Just to be correct, I did not dismiss the European measures; I said that to shift from one to the other creates difficulties of comparison.

There are ways we are addressing noise, as we speak. The bearings on all our new cars are a lot smoother. The baffle noise on the locomotives themselves have less noise than in the past, and the coupling mechanisms on newer cars are also more efficient. Railroad equipment is designed to last 40 or 50 years. One of the issues is that even if you have a new technology on coupling, it will take several years, if not decades, for it to have a true impact.

Everything we do has this concern for fuel efficiency, environmental friendliness, and noise level in mind. The impact is gradual over time.

• (1655)

**Mr. Brian Storseth:** So these are technologies you are currently looking at?

**Mr. Claude Mongeau:** They are being implemented as we speak.

**Mr. Brian Storseth:** I want to get a few more things on the record.

It is my understanding that CN has dangerous goods specialists located all across the country. I would imagine they are strategically located. Can you tell me what the strategy is for the placement of these dangerous goods specialists and what system this is based on?

**Mr. Cliff Mackay:** Let me take a shot at that first.

As a service to the whole industry, we maintain a staff in the Railway Association of Canada who are the most expert people in the country on dangerous goods. They're located out west, in Toronto, and in Montreal. They work directly with the emergency response people from the railways if we have an incident. Their job is to monitor and advise on dangerous goods at an incident site. They do training of operational crews on dangerous goods. They're also very involved in any regulatory processes. You may be aware that new tank car standards were published very recently for Canada and the U.S. There's a consultation process going on with the supplier industry on that as we speak. These are the people who are involved in those sorts of matters.

**Mr. Brian Storseth:** I have one more thing I want to address quickly.

Indeed, 2005 was a tough year when it comes to safety, and in our area the Wabamun situation happened. There were some serious concerns with the communications strategy and some of the safety standards and how that was communicated to the local people.

What changes have you made to these safety practices and the local communication practices since 2005?

**Mr. Claude Mongeau:** These incidents happen once in a lifetime. We at CN have never had an accident like this. We learn from every one, but we did not have experience in this one, prior to this unfortunate event.

We have a lot better equipment now to address a spill, if we have similar issues. We have reinforced our protocol for the intervention at the site and the link with the experts who have the knowledge to address these kinds of events and we have extensively debriefed about how to better communicate and deal with people's anxiety with a more effective, more proactive communication program with the people who are impacted on the site.

As I said, this incident will have cost CN more than \$100 million. We have learned a lot from it and we hope we never have to use it.

**Mr. Brian Storseth:** I sympathize with that, but it cost the people of Wabamun far more than that.



**The Chair:** I'm sorry, I have to stop you.

I'm going to refer to Mr. Russell, who has given up his time to Mr. McGuinty.

**Mr. David McGuinty:** We have about five minutes, so can I ask a series of quick questions in short succession?

Let me get this straight. Ten years ago, CN was privatized. You had a ten-year tax holiday in terms of the debt you assumed from the federal government, not an uncommon story. NavCan ten years ago was in a similar place. Are you paying \$650 million in taxes this year to the Government of Canada or to both governments, United States and Canada?

**Mr. Claude Mongeau:** Next year we will pay \$650 million to the Government of Canada.

**Mr. David McGuinty:** What will your gross revenue be next year, if you know you're paying \$650 million in tax?

**Mr. Claude Mongeau:** It will be \$7 billion to \$8 billion.

**Mr. David McGuinty:** How many employees do you have?

**Mr. Claude Mongeau:** There are 21,000.

**Mr. David McGuinty:** How many people do you have working in stakeholder relations to interface with communities?

**Mr. Claude Mongeau:** We have a large group of people whose job it is to do government relations and community relations. Our public affairs and government relations staff is in the order of 25 people, but it is a responsibility of our field officers to also interact and to be very knowledgeable about whatever happens in their communities, so we have literally hundreds if not thousands of people interacting daily with the community.

• (1700)

**Mr. David McGuinty:** How many noise hot spots do you have across the country?

**Mr. Claude Mongeau:** I don't know the exact number, but I would tell you they are on one hand, and mostly in Quebec and in B. C.

**Mr. David McGuinty:** Okay. So your hot spots are the province of Quebec and the province of British Columbia.

**Mr. Claude Mongeau:** It's very much so, yes.

**Mr. David McGuinty:** Years ago I used to act for different corporations and I've watched the evolution of different industrial sectors over the last 15 to 20 years. The Canadian Chemical Producers' Association came up with a responsible care program, which is now in 85 countries worldwide. It was invented here in Ottawa. It is an international success story for the industrial sector. The Forest Products Association of Canada completely rebooted itself and set new standards for their members, as did the CCPA, and said to industrial players out there, "If you want to play as part of our team, we're not waiting for government or the environmental liability that's forthcoming from a major spill in a lake, and we're not waiting for lender liability provisions to creep up from the United States, as they are into Canadian litigation today, which will cost you not \$100 million in a case like this, but probably \$1 billion in environmental damages." They simply said, "We're jumping ahead. We're going to become, as they say in French, *chef de file*. We're going to come together and we're going to say we're not waiting any more."

Canada is urbanizing at breakneck speed. Intensification and densification is occurring in every major urban centre. In this city where we live it is 10%. In other cities it is 15%. For some it is 8% and for some it's 25%.

Are your insurance rates up as a result of the spill?

**Mr. Claude Mongeau:** I would expect they will be next year.

**Mr. David McGuinty:** Is it costing you more to borrow money as a result of the spill?

**Mr. Claude Mongeau:** No.

**Mr. David McGuinty:** Wait for the Fleet Factors decision to arrive from Boston. When we start seeing that kind of environmental litigation, your capital costs will soar.

Do you have accelerated capital cost allowance on any of your retrofits for your rolling stock?

**Mr. Claude Mongeau:** Unfortunately, we have more in the U.S. than we do in Canada. We'd like Canada to follow suit.

**Mr. David McGuinty:** Yes. Finance doesn't like the accelerated capital cost allowance.

The technology to reduce noise on braking, is it shrink-wrapped technology, on the shelves today?

**Mr. Claude Mongeau:** I don't want to raise expectations unduly. There are technologies that help noise. Their deployment, given the life of our asset, is very slow. Our cars are good for 40 to 50 years, so we replace them at a very slow rate. Whenever we do replace we buy the best technology, a lot of it Canadian-made. The new cars tend to be a lot more environmentally friendly and less noisy.

**Mr. David McGuinty:** What about Mr. Mackay's suggestion to manage this at a local level as opposed to looking for a national perspective?

Your licence to operate is in large measure social. You're kind of a special creature. You have some capital costs invested by the public over the years. The Crown transferred this to you, and consideration was remitted back to the Crown. That's fine—it's kind of a moot argument. You have a special social licence going back to Confederation. Why wouldn't the sector simply call time out? You have wildfires across the country on noise, toxic spill problems, Langley, B.C. Why not make a quantum leap and take this industrial sector into the 21st century?

Why aren't you pushing for a decibel-based test? You could announce to Canadians and all those affected parties that your sector was going to meet a specified timeline. You could pull your laggards forward. Every industrial sector I've interfaced with in the last 10 years or 15 years has accepted that reality and decided to move forward.

**Mr. Claude Mongeau:** Mr. McGuinty, we are a champion in the rail sector for responsible care. We're a champion on safety measures and a leader in establishing safety protocols. We have been recognized worldwide, and we have railroads from all over the world come to meet us every day to understand how we do things. Still, we're not perfect: we have all sorts of issues to improve.

**Mr. Cliff Mackay:** Can I pick up on that? We have had a very aggressive emissions reduction program for over ten years. We're the only part of the transportation sector of Canada that has actually reduced its greenhouse gas emissions in the last ten years, while we've grown exponentially.

Mr. McGuinty, we have stepped out, and we're going to step out some more. We didn't wait for the government to put Bill C-11 on the table. We've been pushing noise and proximity issues for three or four years now, and we've been taking the lead on them.

**Mr. David McGuinty:** Can I make a final plea? It would be helpful for me if you could give us a narrative of some of the things you put on the table today. This would help us to reconcile what you're telling us with what we've heard from community people, local people, hot spots, non-hot spots. I'm not referring only to the question of net salvage value.

• (1705)

**The Chair:** Mr. Sorenson.

**Mr. Kevin Sorenson (Crowfoot, CPC):** Thank you.

I want to thank both of you for appearing before this committee today. I'm not a regular on this transportation committee. I serve on another committee, but I am a member of Parliament who represents a rural riding.

I can tell you that when I get calls or letters from constituents dealing with rail lines, never are they handing out bouquets to the rail lines. The call is about either an area down by Calgary, or the Carseland area, or the Strathmore area, where now, because of the extra freight being moved to British Columbia through Calgary, rail lines are asking municipalities to close roads so that they can park longer trains for longer periods of time. A lot of this affects agriculture. It affects the farmers. It affects their land values. It affects their ability to resell that land. Never do they call because they're happy about what's going on.

I get calls from Lyalta, from Oyen about grain not moving, about plugged elevators. The rail line blames the Canadian Wheat Board. The Canadian Wheat Board blames the rail line. The farmer can't deliver his grain. So very seldom do we have a lot of real bouquets that are handed out to the rail lines.

One thing I know is that over a period of time it would seem that if I am an agricultural producer, my elevation and transportation costs are the major components of my input costs to produce grain. Farmers were convinced by governments years ago that getting rid of the Crow would be the best thing for them. We found out that the

government was wrong, and that we are less able to see a profit or less able to grow as an operation because of it.

I also realized that after the Crow was taken away, there was an intermediate step put in place for grain transportation charges. That intermediate step was a cap. Since 2000, the rail lines have been free to set rates for moving western grain in response to market conditions as long as their total revenues from these movements don't exceed this cap.

The bill we're looking at here today proposes to allow the Canadian Transportation Agency to make a one-time adjustment to that grain revenue formula, to reflect the current cost of maintaining transportation, and to address the issue of government hopper cars.

I have two or three questions for you. What do you expect to be the ramifications for the farmer when the grain transportation agency allows this provision on grain revenue? That's my first question.

The other question deals with the cost of these hopper cars. You've been charging back to the producer close to \$4,000 a hopper car, from what we've been told. Other groups have said those are not the real costs. The real costs are \$1,600 to \$1,700, and yet you've been stinging the farmer. You've been stinging the producer. You've been stinging those who want to move their grain with this \$4,000 per hopper car. Why should we trust you? Why should we as producers trust anything that you guys say, especially if these revenues go down?

Some say that when this one-time adjustment takes place, it may end up saving grain producers some money. In fact, it could be \$50 million to \$75 million that could go back in per year. Is that correct?

**The Chair:** I'll give you the time you need to answer, but that will be the final question. I'm sorry.

Mr. Mongeau, go ahead, please.

**Mr. Claude Mongeau:** It's a good one. I tell you, Mr. Sorenson, the facts are the following. Grain producers in Canada pay 35% less than grain producers in the U.S. for transporting grain. In the farming sector, the cost of transporting grain is the cost of doing business that has had the smallest increase over the last ten years. In fact, it's come down.

• (1710)

**Mr. Kevin Sorenson:** Who owns the cars in the U.S.?

**Mr. Claude Mongeau:** The Government of Canada owns the cars.

**Mr. Kevin Sorenson:** Who owns them in the U.S.?

**Mr. Claude Mongeau:** In the U.S., it's the railroads, but adjusting for the cars, railroads in Canada charge 35% less than those in the U. S. That cost has come down over the last ten years.

The government has announced a \$2 per tonne reduction as a result of the so-called maintenance cost issue. We actually don't agree with this, but that's what the government has announced would be the savings if they implemented that part.

**The Chair:** With that, I want to express our committee's thanks to Mr. Mackay and Mr. Mongeau for being here. Certainly there were some tough questions, but I think they were of great benefit to our committee.

**Mr. Claude Mongeau:** They were tough and good.

**The Chair:** We now have a little bit of committee work to grind through.

Mr. Laframboise, I told you that I would get a commitment from Mr. Duchesneau. He has agreed, writing to the committee that he will be here on November 30. We are still waiting for Mr. Cherry to reply, but we have at least confirmed that part. I am prepared to put it on the agenda as per your request.

At the last meeting we talked about bringing everybody up to date on the schedule. I have scheduled two more meetings of witnesses, for October 31 and November 2, at which time, unless there are further witnesses who have expressed interest or who want to come forward—I haven't seen any—we would be able to move into clause-by-clause on November 7. Currently I've designated November 7, 9, and 21.

Again, those dates are subject to the will of the committee, but if there are amendments that any of the members want to bring forward, I've asked the clerk, and he's going to be forwarding by email the legal counsel's address, if you want to run it by them to make sure that the phrasing and the language is correct. I know from the past that it does create a lot of disruption in the committee unless we check to make sure that the wording is legal and right. So I do want to bring that to your attention.

I also want to notify the committee that we have an invitation as a committee to attend a dinner—something a little more social, perhaps—on Monday, December 4. We've been invited by the Rocky Mountaineer Vacations organization to attend a dinner at the Rideau Club. An invitation will be forthcoming, but I just wanted to give you a heads-up for your schedule.

Other than that, unless there are any questions, I want to move into the motions.

Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** I have a question of privilege concerning your comment about Mr. Duchesneau. I'm told that Liberal colleagues will not be here on November 30, because of their convention. We'll need to verify if that is in fact the case.

[*English*]

**The Chair:** That's a good point. I didn't realize that.

I will get back to Mr. Duchesneau and see if we can move him forward a few days.

I appreciate that information, Mr. Laframboise. I wasn't aware of that. Good advice.

[*Translation*]

**Mr. Mario Laframboise:** It should be earlier, rather than later, Mr. Chairman, otherwise, he won't be testifying at all.

[*English*]

**The Chair:** I understand what you're saying. I will pursue it and report back.

Mr. Scott.

**Hon. Andy Scott:** Could we get a report at the next meeting on what options are available to us in terms of actually calling witnesses before the committee when we're not satisfied with the responses that are available? That way everybody will be aware of just what powers we can invoke.

**The Chair:** Your question, I presume, is whether or not we can subpoena, or whatever the word is, to bring people before us. I'll verify that for you.

Mr. Carrier.

• (1715)

[*Translation*]

**Mr. Robert Carrier:** I have a small request. Could the clerk send us in writing the schedule of our upcoming activities which you have just listed?

[*English*]

**The Chair:** Yes. That will come out probably at the same time he provides you with the address for the legal counsel if you have amendments.

With regard to the amendments, again, if you run them through legal counsel we will then know the scope and whether they're in order. I mean, we can deal with them here, but it does create a break for us in terms of time if we let legal counsel study it ahead of time.

Monsieur Carrier.

[*Translation*]

**Mr. Robert Carrier:** Will you include the deadline for presenting amendments?

[*English*]

**The Chair:** Absolutely. In order to give the counsel some time, I hope that we will have them by the end of the witness presentation next Thursday. I will include that in the letter.

Thank you.

I spoke to Mr. Bell, who is unfortunately not able to be here today. This is an item that was left on the agenda from the last meeting. It was deferred to this meeting for further discussion. He has requested that we defer it until the end of the Tuesday meeting.

I ask for approval to defer Mr. Bell's item until Tuesday.

**Some hon. members:** Agreed.

**The Chair:** I will put it at the end of Tuesday's meeting, and we allow some time for that.

Moving forward, we have a notice of motion that was put forward to the committee at the last meeting. It was brought forward by Mr. McGuinty. I believe everybody has a copy of that notice, *en français* and in English. I will ask Mr. McGuinty to speak to it.

Mr. Russell.

**Mr. Todd Russell (Labrador, Lib.):** Yes. I'd like to make an amendment on this particular motion if it's now on the table.

**The Chair:** I think Mr. McGuinty has to move it first.

I would ask Mr. McGuinty to move his motion and perhaps to speak briefly on it.

**Mr. David McGuinty:** Thank you, Mr. Chairman.

I would like to move the motion. It reads:

That the Standing Committee on Transport, Infrastructure and Communities request the presence of senior infrastructure officials including the Deputy Minister and Assistant Deputy Minister with responsibility for the Canadian Strategic Infrastructure Fund and the Municipal Rural Infrastructure Fund to brief the committee on the inventory and progress of major infrastructure projects now underway.

On my rationale for this, there is enormous discussion in Canadian society at this time about infrastructure funding and particularly the role of the federal government in that funding. There are funds that pre-exist and pre-date the new government, and I believe there are funds that are part of the new government.

There's a lot of discussion in society today. Most recently, our colleague Mr. Laframboise was engaged in a discussion on a TGV train between Montreal and New York City. From what some of us have read, that would have a very positive impact indeed on the Montreal, Quebec, and Canadian economies.

There are at least four major public transit funding agreements in place totalling well over \$1 billion in federal infrastructure moneys. There are at least a half dozen major water and waste water treatment infrastructure investments going on. There's increasing discussion about investment in the city of Quebec in a port and a potential deep-water port there versus infrastructure in a Halifax port, where piers already exist.

I think it would be beneficial for the committee to get a better understanding of where this is at, what decisions are forthcoming, and what announcements have been made. There have been ancillary yet related announcements by the government, not necessarily drawing from these funds, but creating confusion in Canada about what is on and what is off the books, what is going forward and what is not going forward.

There was discussion in this city, for example, about a \$500-million to \$600-million new science and technology museum. Apparently that is no longer the case. There was infrastructure money being contemplated for a portrait gallery, but apparently that's no longer the case. There was \$30 million of federal money on the table and being held in abeyance for the Congress Centre in this city, with matching funds—\$30 million provincial and \$30 million municipal. Apparently that's no longer the case. No parliamentarian

was informed of the decision to withdraw the \$30 million, for example.

There was recent participation by the President of the Treasury Board in an \$850-million infrastructure project here in this city. There are rumours that the Minister of Finance intends to intervene in the TTC \$400-million funding. The mayor of Vancouver is expressing concern about the \$400 million booked for the RAV line, and the mayor of Edmonton is not sure if \$108 million booked and forthcoming for infrastructure is going to make it there.

So with all of this activity and the government announcing and occasionally not announcing, disclosing and occasionally not disclosing, occasionally withdrawing booked money without disclosing it to the Canadian people, and announcing new moneys, I thought it would be very helpful for all parliamentarians here and all parties to get a much better indication of where we're going on this front. We're talking about billions and billions of taxpayers' dollars.

There's not a single member of Parliament, despite what anybody would say in the House, who isn't concerned about value for money and the criteria being used to expend public resources. So I want to table this with my colleagues for discussion and perhaps get this addressed forthwith. I think there are so many projects coming down the line that we ought to know more about them.

Thank you.

• (1720)

**The Chair:** Mr. Russell, do you want to amend it?

**Mr. Todd Russell:** I would amend it to include the new program that was recently announced in the 2006 budget, which was the highways and border infrastructure program.

**Mr. Brian Jean:** How would that read then?

**Mr. Todd Russell:** After "responsibility" in the third line it would read: "for the Canadian Strategic Infrastructure Fund, the Municipal Rural Infrastructure Fund, and the Highways and Border Infrastructure Fund to brief the committee on the inventory and progress of major infrastructure projects now underway."

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Does the amendment need unanimous consent? I'm just curious. I have no idea, so I'd like to know for the rules.

**The Chair:** No, it doesn't.

**Mr. Brian Jean:** The first thing, as Mr. McGuinty would say, is that at this point in time it's very important. People are dying right now in rail accidents. We have some issues with security at airports. My main issue, and the government's issue, is the timing of this. We have some legislation before us. Safety is a primary purpose for which this committee has suggested we look at this as the most important issue, and security is certainly one of those issues. Mr. Laframboise has a motion that we want to support in getting that.

My concern as well is that we have, of course, citizen groups, and this Conservative government is moving forward with legislation to deal with tens of thousands of citizens' complaints on rail noise, fumes and environmental concerns, and even traffic congestion in Montreal, Quebec, Toronto, and Vancouver that affects the health, sleep, and sanity of so many Canadians. Why are these other parties blocking that legislation from happening?

I think those citizen groups are very concerned with that happening. We've heard from many citizens here who are very concerned. They can't sleep. Their health is affected. I'd like to know what the timing is.

Speaking for Mr. McGuinty, he wants to interrupt this legislation to bring this forward now. We have three to five more meetings, and I think we should get it done. If that happens, certainly we'll have no difficulty with the motion after that time, as long as Bill C-11 is dealt with first, and, I would suggest, Mr. Laframboise's motion immediately thereafter.

**The Chair:** I do have a list. Before I entertain any more, just for clarification, I didn't see any timeframe, Mr. McGuinty. Are you suggesting that it just become part of our agenda as time permits, similar to what Mr. Laframboise was so gracious to do, as far as deferring it until the bill was dealt with, or actually, until Mr. Duchesneau advises he could attend?

**Mr. David McGuinty:** Sorry, I didn't address that question—Mr. Duchesneau. I admire Mr. Laframboise's courtesy in that regard, but if we could go back to Mr. Duchesneau for a moment, I find it very disrespectful of the president and CEO of a crown corporation for not attending here forthwith. Apparently he was available to meet with the minister on 24 hours' notice. We are a group of parliamentarians, MPs, and I cannot understand it. I will send my wife to pick him up. She can drive to Montreal in two hours and bring him back—if he's not available and can't find a driver or a car—to attend this meeting for two hours.

I find that actually very disrespectful to the committee, Mr. Chair.

• (1725)

**The Chair:** And I have advised the committee that I will be contacting him to try to speed up the process.

**Mr. David McGuinty:** With respect to this notice of motion, I think we should get to this earlier rather than later, because of the rumours circulating, because of the regular media reports now about infrastructure being on or off, because of the unprecedented involvement of a crown minister in a particular infrastructure project. There is a lot of uncertainty in Canadian society about what's going forward and how it's going forward.

The Minister of Transport said just this morning in a speech in Gatineau at the Hilton Hotel that the federal government has no intention whatsoever of getting involved in municipal matters. It was seriously challenged by the audience and by the media as a result of a comment. I think this is causing some uncertainty.

I'd like to get a better sense. It would very much help the committee forthwith—that is the word I'm looking for—to be able to hear on these projects, these applications, because I think it would help us dispel some uncertainty in Canada.

I'm not sure about other members of the committee, but I'm also hearing from P3 proponents who are now concerned about political risk costs associated with bidding on large infrastructure projects if indeed there will be a new degree of federal involvement once contracts are signed. This is now making it more difficult for some cities even to get the consortia they want to bid on their projects. I'm thinking chiefly now of the TTC and of Vancouver, the RAV line.

So I thought those would be important reasons for us to look at this within the next two weeks and to get some better indication.

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** I think it's incorrect to suggest that this is inconsistent with the speedy passage of Bill C-11. The only thing we're doing on Bill C-11 now is listening to witnesses. Everybody submitted names for the witness list. We're doing this in due process. I can't see any holdup.

As to as dealing with urgent matters deserving of our attention, Kevin would know as well as anybody that the sitting time of this committee is not unusually onerous. When Kevin was a member of the justice committee with me, I can remember sitting five, six sessions a week. So if we want to deal with this, we should find the time to deal with it as an important matter. I don't think it's a reasonable objection to say we can't consider it because we're too busy doing what we're doing. There's time to do this, and I think it's worth it. We should do it quickly.

The infrastructure programs, big programs, important programs to Canada—I'll acknowledge that some of these have been extended. The municipal rural infrastructure, the border and highway infrastructure, have been extended by the government. But they're making policy decisions on these programs without our having any say in the matter. These are important public policy issues. Large amounts of money are being committed and uncommitted without any parliamentary oversight at all.

So I think we have to do this. We should use time that is not currently committed to dealing with Bill C-11, so nobody can charge that this is getting in the way of Bill C-11. I think we should do it forthwith. In our absence, there are important public policy decisions being taken on significant programs.

**The Chair:** Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Mr. Chair, I'm moving another amendment to include the word after “inventory”—

**The Chair:** I'm sorry, we cannot move another amendment until we've dealt with this one.

**Ms. Olivia Chow:** You haven't dealt with that one yet?

**The Chair:** No.

Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** Mr. Chairman, I simply want us to be on the same page. I don't think there is any urgent need to debate the motion. I tend to agree with Mr. Jean, in that we have adopted a work plan and now we must deal with Bill C-11, as quickly as possible. The motion reads as follows:

That the Standing Committee on Transport, Infrastructure and Communities request the presence of senior infrastructure officials [...]

It doesn't specifically say at the next meeting or when exactly.

Getting back to my motion, I'm starting to run out of patience. I've been very nice and civil with Mr. Duchesneau, but my patience is wearing thin. I want to hear from him before we examine this matter, simply because the motion was tabled first. Therefore, I'm asking my colleagues to support me on this. I have no objections to discussing my motion after that. I might even have a small amendment to suggest later, but I have no objections at this time.

However, I do want us to have a debate. Mr. McGuinty, you mentioned earlier that according to Conservative members or to the Minister, municipalities fall under provincial jurisdiction. That is consistent with the Bloc Québécois' position. Therefore, I can't fault the Conservatives for saying that constitutionally, municipalities are a provincial responsibility and that that the provinces must be included in the discussions. I don't want us to get off track. However, I would like to know the substance of these programs.

I'd like to suggest one small amendment — I've spoken to you about it — a little later, but right now, we need to focus on Bill C-11 first, hear from Mr. Duchesneau and then consider the motion. I don't have a problem with that. I'm prepared to hold a special meeting, if necessary. We made a promise to the public in so far as this bill is concerned. Therefore, I want us to adopt the legislation as quickly as possible and get on with matters.

• (1730)

[*English*]

**The Chair:** In light of our timeframe, I'd like to make a suggestion.

I sense that there may be a willingness to organize some extra meetings. Perhaps we can deal with Mr. Duchesneau in that forum, rather than trying to fit him into this schedule. I would ask that we defer the decision on Mr. McGuinty's motion until the next meeting. In the interim, I will contact Mr. Duchesneau to see if we can reach him earlier. I will also provide the committee with the working list of the schedule that's coming up in the next three to four weeks. I will also provide options on bringing Mr. Duchesneau before the committee. Would this be acceptable?

Mr. Scott.

**Hon. Andy Scott:** It's just a question. When do we get the work plan? Did you actually say when?

**The Chair:** I'll get it to the clerk by the end of today. We'll get it formalized and sent out to you by e-mail, along with the definition of how we can bring forward witnesses who don't seem to be appearing to cooperate with us.

**Hon. Andy Scott:** I would agree with Monsieur Laframboise in terms of the order in which we would do this, with the possible exception that if we don't get our witness here in a timely fashion for some reason, I don't think we necessarily have to wait. The deputy minister for infrastructure can be here tomorrow.

**The Chair:** Right, and what I'm understanding is that we want to continue these regular committee meetings to deal with legislation. If necessary, we're then prepared to have second or third meetings to bring forward Mr. McGuinty's and Mr. Laframboise's issues.

Mr. McGuinty.

**Mr. David McGuinty:** I agree with you completely and I agree with Monsieur Laframboise completely, and to assuage the concerns of my colleagues on the other side, I don't want to hold up Bill C-11. I think Mr. Scott's suggestion of holding additional meetings—one for Monsieur Duchesneau—as soon as possible and moving immediately to begin looking for a time and place to deal with this motion and to convene infrastructure officials can happen contemporaneously with Bill C-11 discussions. I don't think anyone wants to delay the passage of Bill C-11. We have lots of meat to chew on and lots of amendments to consider, I'm sure.

But it would be unnecessary to delay it until next Tuesday, Mr. Chairman. We can probably move on the motion and continue the debate or put it to a vote. Perhaps we could then work with staff and the clerk to find additional times. I don't know if evenings are doable or not doable in terms of being able to convene. I just think this is of such import that we need to get some clarity around what's happening with booked, unbooked, and future projects.

**The Chair:** I'm just suggesting that if I can put together this schedule for the committee, I am asking for the committee's approval to move it to the next meeting in order to bring it to a vote, rather than trying to continue the debate tonight.

**Hon. Andy Scott:** We need the work plan to make an informed decision.

**The Chair:** Would that be reasonable?

I'm not trying to defer this. I'm just trying to provide the committee with a work plan.

**An hon. member:** Why not just vote on it? Just vote.

**The Chair:** The only thing I'm saying is that if we vote on this, then we have an amendment to vote on and we have.... If the committee has all the information provided for them....

I'm at the will of the committee.

Mr. Jean.

•(1735)

**Mr. Brian Jean:** My colleagues and I discussed this, and I actually proposed to Mr. McGuinty that we would support this unanimously. That would have a real effect for those outside of the committee to see what we want to challenge and certainly infrastructure in the motion itself is of good content.

My concerns, like those of Mr. Lamframboise, are the security of Montreal airport and Bill C-11, to make sure that these people who have come before us and are watching us so closely and are listening to us today realize that we're not trying to hesitate. We're a committee that gets action done, and we're going to get Bill C-11 done.

Mr. McGuinty, these are projects that are happening five to twenty years from now. I'm very interested in them as well, but as for the \$30 million that was removed by the province, you should probably talk to your brother about that, because it was his decision to remove that. Our federal money was contingent—

**The Chair:** I don't want to get into this. I'm trying to get an agreement.

**Mr. Brian Jean:** But other meetings would certainly be appropriate.

**The Chair:** The other option that we have is for the subcommittee to meet additionally to fulfill Mr. McGuinty's request.

We also have Mr. Bell's request that we have to consider and move in a motion.

I'm asking the committee if we're prepared to defer this until the next meeting, at which time we'll make the decision. You'll have the information in front of you. I hope to have Mr. Duchesneau confirmed, but I will defer.

We'll hear one last comment to Mr. Scott, and then we'll make a decision.

**Hon. Andy Scott:** My comment is simple. We all agree on the half of this that we can deal with right now, and that is that we want to do it. I don't think there's any dispute that we would like to have the officials from infrastructure come before the committee. No one disagrees with that.

**Mr. David McGuinty:** Pass the motion.

**Mr. Brian Jean:** It's the timing.

**Hon. Andy Scott:** I would suggest that we can pass that, and we'll defer the question of timing until Tuesday, when we have more information. But we want to get it on the record that we want this to be done so that we can give notice to the minister.

**The Chair:** Then I will ask that the question be put.

**Ms. Olivia Chow:** Is this on the amendment first?

**The Chair:** The question is on the amendment.

Mr. Jean.

**Mr. Brian Jean:** This is for clarification only, Mr. Chair. I apologize.

Was the “forthwith” part of the amendment?

**The Chair:** No.

(Amendment agreed to) [See *Minutes of Proceedings*]

**The Chair:** The amendment is passed as presented.

Ms. Chow.

**Ms. Olivia Chow:** I have just a quick one on adding “application and approval process”. Just to clarify, it's after the word “inventory”, and then we'll add “application and approval process”.

**The Chair:** I'm only speaking from my past experience, but I don't think this committee can review applications if they haven't been approved.

**Ms. Olivia Chow:** No, no. It's the process, not the application. I don't want to look at any applications; it's the process of how it gets approved. That's all.

I think that's a very friendly amendment. I believe I spoke to the mover of the motion.

**The Chair:** I'm sure it will all come out in the conversation.

Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** I did say that I had an amendment to suggest. I'd like us to delete the reference to “major projects”. While we're on the subject, let's talk about projects. I don't think we should limit ourselves to three or four considerations such as who will have the final say on major projects, and which projects will go ahead. Let's discuss projects in general. We must be able to ask any questions we want.

[*English*]

**The Chair:** Can we change the word *grands* to “all”?

**Some hon. members:** Agreed.

**The Chair:** Satisfactory?

We'll credit Ms. Chow for two and Mr. Laframboise with the seconding of that amendment.

I would ask that the question be put then, and I will ask the clerk to read it, please.

**The Clerk of the Committee (Mr. Mark D'Amore):** The motion reads:

That the Standing Committee on Transport, Infrastructure and Communities request the presence of senior infrastructure officials including the Deputy Minister and Assistant Deputy Minister with responsibility for the Canadian Strategic Infrastructure Fund, the Municipal Rural Infrastructure Fund and the Highways and Borders Infrastructure Program to brief the committee on the inventory, application and approval process, and progress of all infrastructure projects now underway.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I need some clarification. Is the \$16.4 billion “all” infrastructure projects? We're talking anything from \$500 up to.... What are we talking here? Why don't we get a new committee and just meet every day for the next ten years, because that's how long it's going to take to brief us. Let's be realistic here, folks. This is the Government of Canada.

•(1740)

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** There are two different issues here. One is that whatever we want to discuss we want it to be available. We're not going to discuss every project.

**Mr. Brian Jean:** Well that's what the whole list means.

**Hon. Andy Scott:** No, it means they're available. In other words, we have the right to ask a question about a project, even a small project. If you don't include all of them in the descriptor, you don't have the right to ask about them. That isn't to say that everybody is going to ask about all of them.

[*Translation*]

**Mr. Mario Laframboise:** That's why I wanted to delete the word "major". The motion would then read "progress of infrastructure projects". That way, we can discuss any project...

[*English*]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I was just going to make one more friendly amendment, if I can at this stage.

**The Chair:** Okay. Let's hear it.

**Mr. Brian Jean:** I would add, "...and such be done at a meeting convened other than the normal meetings of the committee". I think we can have unanimous consent on that. As long as it's during extra meetings, I don't think we have any problems.

We just want to make sure that the citizens we represent in Toronto, Montreal, Quebec City, and Vancouver especially are very happy and content with the movement by this committee. I'm very interested, and so are all the members of the committee.

**The Chair:** Okay. If everyone is in agreement, then I will ask the clerk to read it again.

So we would take out the words *grands* and "all" because what we're really saying is "infrastructure projects".

I will ask the clerk to read it, and then we will put the question.

**The Clerk:** That the Standing Committee on Transport, Infrastructure and Communities request the presence of senior infrastructure officials including the Deputy Minister and Assistant Deputy Minister with responsibility for the Canadian Infrastructure Fund, the Municipal Rural Infrastructure Fund, and the Highways and Borders Infrastructure Program to brief the committee on the inventory, application and approvals process of infrastructure projects now underway, outside of the normal meeting time of the committee.

**The Chair:** All those in favour of the amendment?

(Amendment agreed to)

**The Chair:** All in favour of the motion as amended?

(Motion agreed to) [See *Minutes of Proceedings*]

**The Chair:** The committee is adjourned.

Thank you, ladies and gentlemen.

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