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Chair

Mr. Merv Tweed

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• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Welcome, and good afternoon, everyone. This is the Standing Committee on Transport, Infrastructure and Communities, meeting number 35, pursuant to the order of reference of Tuesday, November 7, 2006, Bill C-6, An Act to amend the Aeronautics Act and to make consequential amendments to other Acts.

Joining us today we have, from Transport 2000, Mr. David Jeanes, and from the Air Line Pilots Association, Dan Adamus and Art LaFlamme. We appreciate your coming out on a blustery day. I know there's been some discussion, but I think we'll start with the Air Line Pilots Association and give Mr. Jeanes a chance to get himself set up and organized.

Traditionally we give you about seven minutes to pitch, and then we'll go around the table and ask you some questions, if that's okay.

Please begin.

Capt Dan Adamus (President, Canada Board, Air Line Pilots Association): Thank you, Mr. Tweed, and good afternoon, members of the transport committee.

I'm Captain Dan Adamus, and I'm here representing the Air Line Pilots Association, International, or what we refer to as ALPA. I'm ALPA's Canada Board president and a pilot with Air Canada Jazz.

With me today is Art LaFlamme, ALPA's senior staff representative in Canada. We appreciate the opportunity to appear before you today to express our views on Bill C-6.

The Air Line Pilots Association, International, represents more than 60,000 pilots who fly for forty airlines in Canada and the United States. Both as our members' certified bargaining agent and as their representative in all areas affecting their safety and professional well-being, ALPA is the principal spokesperson for airline pilots in North America. ALPA therefore has a significant interest in any legislation affecting aviation here in Canada.

ALPA supports this legislation, in particular the provisions to permit the effective implementation of safety management systems, known as SMS, in aviation companies regulated and certified by Transport Canada. ALPA has embraced SMS as the next great leap forward in advancing aviation safety. We see it as a comprehensive corporate approach to safety that involves both management and employees in the development and implementation of a company's SMS.

You may ask why ALPA is so strongly supportive of SMS and this legislation. We are for many reasons. It clearly establishes accountability for safety at the highest levels within a company. It provides for the reporting of safety occurrences and information without fear of retribution. It requires employee involvement and a formal risk assessment and decision-making process, to name but a few things.

ALPA views SMS as an umbrella framework over the existing safety regulations. Under SMS, no longer will a company be able to ignore a safety issue by saying they are regulatorily compliant. If a safety hazard is known or has been identified, a company is required to do a risk assessment and make a conscious decision on what mitigations are required to deal with it.

SMS clearly establishes responsibility for safety where it belongs: the aviation industry. It is the minister's responsibility to provide comprehensive and effective oversight and to take the appropriate measures where that responsibility has not been fulfilled. The traditional method of safety oversight based on detailed technical inspections can take on the role of operational safety assurance, and the aviation industry can lapse into thinking and believing that safety is the government's responsibility. ALPA believes this legislation clearly establishes where the responsibility and accountability for safety lies, and it provides all the powers required for the minister to take appropriate measures when required.

ALPA has not only accepted SMS in Canada, it has adopted it in the U.S. as the way forward. ALPA has been actively advocating it to the Federal Aviation Administration, the FAA, and with those airlines whose pilots are represented by ALPA. In fact, ALPA has been instrumental in achieving FAA buy-in to SMS, resulting in the FAA flight standards division issuing an advisory circular with standards for those airlines wishing to implement SMS.

As you are probably aware, the International Civil Aviation Organization, ICAO, has adopted SMS, and it will become an international standard in 2009. In that regard, the International Federation of Air Line Pilots Association, IFALPA—of which we were a founding member—has worked closely with ICAO in establishing the ICAO standards and recommended practices and strongly supports this international initiative.

We understand the expressions of concern that have been made regarding the protection from punishment and for the confidentiality provided for in the draft legislation. We believe these provisions are absolutely essential to the success of a company's SMS.

We can explain our position as follows. To proactively address safety issues, data is required. Strategies to enhance safety need to be data-driven. In the absence of accidents, the right kind of data is required. Human and organizational factors create errors or hazards that largely remain undetected until the right set of circumstances result in a bad occurrence. An organizational climate where people feel free from negative consequences when reporting errors, deficiencies, and hazards is essential to obtaining all the data that is available. Therefore, a reporting program must provide confidentiality and immunity from discipline to be effective. Of course, exceptions would be a wilful or deliberate offence, gross negligence, or a criminal act.

• (1540)

In summary, ALPA believes a voluntary, confidential, and non-punitive reporting program is an essential element of an SMS and this legislation.

ALPA would like to comment on one other provision of this draft legislation, and that's clause 12, the power of the minister to designate organizations to act on the minister's behalf in certain areas. ALPA is of the strong view that this designation power must not be granted for commercial passenger and cargo operations. We note that the legislative language is quite broad, subject to regulations on which stakeholders are to be consulted, through the Canadian Aviation Regulation Advisory Council, or CARAC. We have been advised by Transport Canada officials that this provision is meant to address only low-risk, non-air-transport areas of the aviation industry. We recommend that the committee obtain, for the record, such an undertaking from the minister.

We thank you again for the opportunity to appear before you, and we would be glad to take any questions you may have.

Thanks.

The Chair: Thank you very much.

Mr. Jeanes, are you ready to go?

Mr. David Jeanes (President, Transport 2000 Canada): I am.

Thank you, Mr. Tweed.

First of all, I would say that we are appearing here on very short notice of only a day or so. We don't have a written brief. Unfortunately, I could not be joined this afternoon by my colleague Gerry Einarsson, who is our expert on air safety matters, but I have been extensively consulting with him over the past two days. I hope the verbal presentation I make today will be useful to you.

You may normally think of Transport 2000 as a consumer organization that is primarily concerned with urban transit and railway matters. We last appeared before you in October of last year to discuss matters relating to rail travel. But we have been strongly concerned, mainly from the consumer perspective, about air transportation for quite a number of years. In fact, we appeared before this committee back in November 1999, as part of a coalition of nine different consumer organizations that were very concerned about consumer issues arising from the merger of Air Canada and Canadian Airlines.

At that time, one of the organizations that joined that coalition, along with the Public Interest Advocacy Centre and others, was the Air Passenger Safety Group, which was a group of people with strong expertise in the air industry who were particularly concerned about safety matters. That group subsequently became an affiliate of Transport 2000, and with their expertise over the subsequent seven or eight years, we have been quite heavily involved in airline-related matters. In fact, we're often called on directly by the national media for comment, particularly when there is an air safety issue, when there is a major air incident. We do believe that we try to provide an informed and balanced comment that is useful, in the public interest, and helpful to people when it comes to understanding the circumstances surrounding various incidents.

One good example of this was the crash and burning of the Air France flight at Pearson Airport, where we were quite extensively involved. We were actually told by representatives of the Transportation Safety Board that they had found the interviews we were giving to the media to be quite to the point and appropriate. So that's just some background.

We do also participate quite actively, in a consultative way, with various groups in the administration of the aviation industry, with Transport Canada, and with airline organizations—for example, in CARAC, the Canadian Aviation Regulatory Advisory Committee.

When it comes to Bill C-6, we strongly support the principles of the amendments as they are identified here. Matters such as aircraft emission regulations and the ability of the minister to make emission regulations relate quite closely to our commitment to sustainable transportation and to transportation that benefits the environment.

I'll talk a bit more, but we are quite concerned about the ability of the minister to handle fatigue countermeasures. Whistle-blower provisions are crucially important.

The whole area of SMS and provisions for more self-regulation by the industry is a matter on which we certainly understand the economic importance, but we feel it has to be balanced with a concern not only for absolute safety—which is, of course, always a matter of concern for Transport Canada—but also for public perception. It is in the interests of the industry itself that the public perceives that air travel continues to have the very high safety standards and safety record it is well-known for. In fact, we believe this relates to improved consumer choice.

You can talk as much as you like about a free market, but a free market implies that consumers have the knowledge to make the choices within that marketplace, and knowledge of the safety measures, and even the safety records, of the air carriers is an important part of that informed consumer choice.

I know I have to try to be brief here, but with respect to SMS, we do believe it is essential for the department to continue to have enough resources to do the monitoring, surveillance, and evaluation of the safety programs. In other countries we've had too many examples of where responsibility for safety and maintenance has been devolved. A very bad example occurred in Britain, where maintenance of the railways was devolved entirely to the private sector and resulted in a large number of severe and multiple-fatality accidents. They needed to practically shut down the entire national rail network after one particular incident resulting from the maintenance decisions under a self-regulation environment. There was a subsequent need for the government to re-nationalize both railway infrastructure and railway maintenance after they had been privatized.

It is very important that as you introduce these SMS programs and self-regulatory regimes you retain the ability in government to understand how well it's working, because once it fails, it's very expensive and complicated and difficult for all concerned to rectify the problems and to take it back.

• (1545)

Public oversight is absolutely essential. There have been many incidents that could have been prevented if this kind of whistle-blower protection had existed. As a specific example, I can go back as far as the Dryden crash in 1989, which was a de-icing matter, where it was clearly established that had employees been able to speak without fear of reprisal, the 24 deaths in that accident could have been avoided. We learned from that, and in fact de-icing procedures worldwide have improved as a result of what we learned from those fatalities, but in fact the fatalities might have been unnecessary if whistle-blowing protection was available.

It's not a Canadian situation, but an Alaska Airlines crash that happened in January of 2000 again was a case where known maintenance issues had been suppressed because there was no protection for the employees who could have provided that information. The plane crashed due to failure of its tail assembly, and the 88 fatalities that resulted could have been avoided.

We understand that this legislation is being dealt with against the background of diminishing and decreasing resources at Transport Canada, and although that may be a reality, and there may be great difficulty as experienced inspectors retire and so on—difficulty in replacing them—that by itself isn't an excuse for downgrading the level of safety in the industry. If the resources are required for safety, they must somehow be found.

Finally, we found some very good remarks, which I hope the members of this committee will have read or be aware of—and if you aren't, then I recommend them to you—in the remarks made by Justice Moshansky last November. He did the original investigation of the Dryden crash in 1989. He made a speech in November that was still quite concerned about the state of the management of aviation safety in Canada, about lessons that had been learned but had not necessarily led to improvements being made. Particularly, he had strong remarks related to the problems of inadequate supply of inspection capability—inspectors at Transport Canada.

Yes, it is appropriate to improve the act along the lines that are requested here and to devolve in a way that maintains safety and

Transport Canada's ability to monitor the adequacy of safety mechanisms, but also in a way that will ensure that the public continues to have confidence in the safety of the airline system and can make informed choices.

Thank you.

• (1550)

The Chair: Thank you, Mr. Jeanes. We do appreciate the short notice you had to deal with, and you made a good presentation.

Mr. Volpe.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Let me add my thanks to the witnesses before us.

Yes, I have read some of the comments by Justice Moshansky. I understand the committee is going to have him before us, so we'll have an opportunity to address him in person.

You indicated that Transport Canada, or whatever agency is going to provide the oversight, should ensure they have the resources so that public oversight will be effective and ever present. You must have a model in mind.

Mr. David Jeanes: The problem is that if the industry has the only expertise regarding safety, then Transport Canada largely becomes an outsider. If Transport Canada doesn't itself have in-house expertise that is at least equally capable of evaluating the mechanisms and the provisions the industry provides through SMS, then it's not possible for the government to know whether it's working or not.

I'm sorry to refer back to a different mode, but the British government had absolutely no idea how bad the situation was becoming in railway maintenance in the U.K. until the Hatfield crash and its associated fatalities, which revealed that virtually the entire railway network in Britain had to have very severe speed restrictions applied for many months while deferred maintenance problems all over the country were addressed.

The problem was that the national bureaucracy that had previously existed under a nationalized railway, with the expertise to deal with railway maintenance issues, had not been replaced with enough expertise to at least maintain a government oversight of how well the industry was policing itself. There was no longer the knowledge at the government level to really look critically at that self-regulation of safety and maintenance that the railways were practising.

The railways, when they were privatized, got all the experts. Those experts, over time, retired and were not replaced. The bottom line was the ruling factor; maintenance practices were downgraded, and the government didn't see it coming until it was time to mount a full-scale inquiry to find out why the country's rail network had collapsed.

Fortunately, the airline industry hasn't gone that way, and should not go that way. This must be done in a rational and controlled way that ensures that government oversight is maintained as you devolve self-regulation of safety processes.

Hon. Joseph Volpe: Surely that's the reason you support the legislation: there's an inference to be drawn, and an implication that's very specific, which is that the government is suggesting very strongly—in fact, even saying—that in effect we don't need whistle-blowing legislation because there's going to be a voluntary reporting mechanism for the purposes of gathering data that might not otherwise be forthcoming. That data is going to be available for the agency that will provide the public oversight.

Is that not your understanding?

• (1555)

Mr. David Jeanes: We still see all of this legislation against the background of a declining level of ability to perform safety enforcement at the Transport Canada level. It's a problem of replacement of expertise; it's whether the department will even continue to have much of a role when it is devolved, whether it's devolved to airline companies themselves or to industry organizations, which I think is another part of the proposal.

Hon. Joseph Volpe: That's an interesting perception, because it causes me to reflect a little differently on some of the statements you've made and some that Mr. Adamus has made as well.

I noted in your presentation, and here it is in writing, that even though you're very happy with the legislation, you have some concerns about clause 12, and then that you're “of the strong view that this designation power must not be granted for commercial passenger and cargo operations”. You didn't expand on your reasons; perhaps you would do that now.

You've also said something that, to my mind, is novel: you ask the committee to obtain, for the record, an undertaking from the minister. That's a rather strong position to take. Why would you do that?

Capt Dan Adamus: Those are some very good questions.

I'll start with clause 12. Clause 12 has nothing to do with the SMS language. Clause 12 is setting the framework for the possibility of third-party oversight in certain areas of aviation. We don't believe it's a good fit for the airline industry, certainly not at this time. When we questioned Transport Canada officials on the issue, they assured us that was not the intent.

We understand that in legislation you don't want to restrict the language too much, and that's why it would be tough to put amendments in here; however, when it comes to the regulation, perhaps at that point they could make sure it's not intended for the air transport segment of the aviation industry.

Hon. Joseph Volpe: Will we have some input at the stage where the regulations are being framed?

Capt Dan Adamus: Absolutely, it'll be through the CARAC process, and we participate as full partners.

Hon. Joseph Volpe: I'm sorry to have interrupted you in the middle of your statement. I'm still interested in hearing the rest of your response, specifically as to why you wouldn't want the designation of any of that authority to commercial and cargo operations. They have to be as equally concerned about safety management systems as anybody else.

Capt Dan Adamus: We fully support SMS. However, third-party oversight, which is a separate issue, is again something that we don't see as a fit for the transport side of the aviation industry.

It's being done right now in commercial business aviation. My understanding is that it's working quite well, but that is a totally different segment of the industry. We were told that this was put there for areas such as the ultralights or crop-spraying aircraft, but it was not intended for the airline industry.

The Chair: Thanks.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much, Mr. Chair.

I'm going to continue in the same vein because we all have a problem. In any case, the bill poses a problem for me. We can agree to have a safety management system, but there are two major qualifications.

The first qualification is the fact that part of the oversight is being assigned to independent organizations. You tell us that you've been told we couldn't amend the act, that we have to wait for regulations. I'm telling you that, as parliamentarians, we can amend the act. We can simply decide to delete this entire part. We can make changes, amendments.

If you had any suggestions to make to us with regard to that, I think it would be time to do so. You can't do them today, but you could send them to us because we can very well make amendments.

So my first problem is that we want to ask independent organizations to monitor implementation in certain areas.

Do you think we should immediately make amendments to the act, if we have the power to do so?

• (1600)

[*English*]

Capt Dan Adamus: Certainly a clarification on my comments is in order.

Amendments are up to you as a committee, and certainly that's your purview. What I meant to say was that you don't want the legislation to be too restrictive, so that it prevents the department from implementing the regulations that make good on the intentions of the legislation. That was what I was trying to put forward.

[*Translation*]

Mr. Mario Laframboise: I understand you clearly. If we could do it while maintaining a certain leeway, you would agree; I understand.

My second point concerns page 2 of the brief that you tabled with us, where you say:

The traditional method of safety oversight based on detailed technical inspections can take on the role of operational safety assurance and the aviation industry can lapse into thinking and believing that safety is the government's responsibility.

So you're suggesting that the industry is somewhat responsible; that's why you're supporting this.

My problem stems from the fact that you cast doubt on the traditional inspection and oversight method. As you said earlier, Mr. Jeanes, the department must continue ensuring oversight. However, in this bill, there's absolutely nothing that reinforces the work of inspectors to ensure that this policy is implemented. It creates something new, but does not clarify the position of Transport Canada and the inspection service, inspectors, federal pilots and so on.

This approach troubles me. In your brief, you seem to say that what happened before and the systematic inspections are not a good solution, that that should be assigned to the industry. I'm very reluctant to assign this responsibility to the industry because that becomes self-regulation. I'm willing to believe that you discipline yourselves, but the idea of you being responsible to yourselves for implementing the regulations concerns me a great deal. I want you to do it, I want the industry to discipline itself, but I don't think it's up to the industry to decide whether things are going well or not. I think there has to be an independent inspection service that is maintained and reinforced, in order to ensure us and ensure the public that the service or what has been put in place is well respected.

[English]

Capt Dan Adamus: It is our understanding that Transport Canada will continue to have oversight on safety. There will be regular audits on company SMS systems that are in place. If they detect any irregularities, then it'll go back to the more traditional audit.

Transport Canada will still play a huge and very important role. I think they've done a fantastic job in the past in identifying areas where improvements could be made.

I think with today's technology, aircraft training systems have improved to a great degree. This will only enhance that, by being able to identify problems out on the line as pilots, without worrying about retribution. If we say something about what was done that maybe wasn't done the correct way, then this will improve safety. This is how.

I will use an example. One of the companies we represent in Canada has a flight that departs Toronto fairly late at night and flies to St. John's, Newfoundland. It sits for two hours and then returns. The pilots were continually saying how tired they were on the return trip. The company's response originally was that it's within the Transport Canada regulations, it's within the 14-hour duty time, and they were absolutely right. However, under the SMS system in that company, they sat down with the company officials and identified that the two-hour wait at 4:30 in the morning probably wasn't the best thing. Now they've rearranged their flight schedule so they don't have that sit.

That's an area where SMS works perfectly well. I know Transport Canada would certainly embrace that in that situation.

• (1605)

[Translation]

Mr. Mario Laframboise: I understand that's the way it is in a world where the economy is going well and at a business that's running well, but we've often seen companies come and go in the space of two years.

I support the principle of the safety management system. However, we need an effective inspection service, with federal pilots, that is ready at all times to intervene directly with businesses that have not filed complaints, for all kinds of reasons. For example, that could be the case because the company is doing poorly and employees support certain things because they see that things are not going well within the company.

I'm concerned about public safety. That's why we need an independent system. Transport Canada has to maintain a high-level inspection service.

If the bill remains as it is right now, safety could even be turned over to independent businesses, as has been done in Great Britain. That's not what I want. Nothing guarantees me that there will be an independent inspection service of Transport Canada officials who can intervene at any time when they think that something is not right. Do you understand my fear?

Do you think I'm right to continue thinking that way?

[English]

Mr. Art LaFlamme (Senior Representative, Canada, Air Line Pilots Association): The Air Line Pilots Association strongly supports that Transport Canada should maintain an effective audit and inspection program.

What we were saying here is that under SMS, the nature of the inspections and audits might be changed somewhat from the more traditional methods, where inspectors look more closely at aircraft and things of that nature. As we understand it, they will be looking at the system as a whole and how effective that system is with respect to safety.

The Chair: Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you very much, Mr. Chair, and thanks to the witnesses for coming forward today.

It's very important. This is a bill that has significant ramifications, as we're all aware, and certainly on this side of the committee table we want to make sure we do our complete and due diligence at every single step.

I'd like to follow up on Monsieur Laframboise's comments and refer to Transport Canada testimony that we heard on Monday. This committee was told on Monday that with Bill C-6, we would be in full compliance with international standards under ICAO, and that indeed Canada is in full compliance with international standards within the ICAO.

I wanted to ask you what the current ICAO standards are for pilot proficiency checks, and how often do those need to be undertaken?

Capt Dan Adamus: I don't have that information off the top of my head, but we could get the information.

Mr. Peter Julian: My understanding is that they're every six months.

Capt Dan Adamus: That's what it is in Canada.

Mr. Peter Julian: Those are the standards in Canada?

Capt Dan Adamus: Yes.

Mr. Peter Julian: My understanding is that Transport Canada is actually moving to a longer benchmark for pilot proficiency checks. Would that not be true?

Mr. Art LaFlamme: If my recollections are correct, I believe that's true, but with certain conditions in place regarding training in particular. But it has been some time since I've looked at that.

Mr. Peter Julian: We'd appreciate some follow-up on that, perhaps, because it seems to be a discrepancy. If we're being told that the international standards are being met but they're not being met—it's certainly not clear with pilot proficiency checks—then that is something this committee would have to grapple with. If there are standards that we're not meeting but we're being told that we're meeting all standards, then there's a problem.

Capt Dan Adamus: For the companies we represent, the pilot is required to do a six-month check. There are other airlines that have a slightly different training system, that maybe go for longer periods, but they're being trained more often. I'm not 100% sure on that, but maybe that's what you're alluding to. We can certainly get the information and get it to the committee.

• (1610)

Mr. Art LaFlamme: We could, but I'm wondering if that information is more appropriately obtained through other sources, because we're not the experts.

Mr. Peter Julian: Okay.

Moving on then, Mr. Laframboise raised the issue of inspection. Most estimates say that about 40% of inspectors with Transport Canada will be retiring over the next five years, and there have been budgetary cutbacks as well. There's a concern here about an overlay of SMS in a situation where the inspection foundation is no longer present.

Are you concerned at all about what Mr. Jean cited, that being the situation in the United Kingdom with SMS? We've heard some reference to Australia and New Zealand and problems they've had there, and about problems in Canada that we're fully aware of.

With SMS in the railway system, for example, we saw a considerable increase in accident rates. In British Columbia, certainly, we've seen a number of deaths and significant accidents. Some folks say the safety standards aren't being maintained to the same degree.

With marine transportation, we also have the sinking of the MV *Queen of the North*. Concerns have been raised in testimony around the equivalent of an SMS for marine transportation.

Are you concerned at all about these other examples of where SMS has not led to a better, more safely managed system, but actually appears to have led to a more poorly managed system?

Capt Dan Adamus: I can only speak for the airline industry. I'm a pilot. I don't work in the other areas, so I'll stick to the airline industry.

SMS, from what we've seen so far, has worked very well. It has led to changes in procedures that would never have happened, unless the pilots or the engineers or whoever works around the aircraft, came forward and identified this potential problem or this error that continuously happens. This would never have been fixed, and the

worst-case scenario could have happened. It could have led to a serious incident.

Because of the SMS system, those individuals involved were able to come forward with the information, with no fear of any retribution. It was discussed and the problem was identified. In some areas, it was just a simple matter of changing the order in which a checklist was done. So from what we have seen so far in the airline industry, it's all positive.

Mr. Art LaFlamme: We would add again that we support that the minister or the government must have a strong oversight system in place to make sure it's working as intended.

Mr. Peter Julian: Getting back to that, that's really the context in which we're discussing it, with attrition rates among inspectors and essentially cutbacks within Transport Canada's capacity to oversee that system. Within that context, would that concern you about putting in place an SMS if there isn't that inspection foundation?

Mr. Art LaFlamme: If the people coming up into a system do not have the expertise, it makes it more essential to have an SMS. You need to have that umbrella framework so that those who are there have all the appropriate skill sets required to oversee the system. In our view, it's even more essential if we're going to have a reduced number of inspectors just because they're not available.

Mr. Peter Julian: Well, that's assuming the government simply ignores the advice of many people across the country that we have to put in place that foundation. So your preference would be to have a very strong inspection foundation, is that not true?

Mr. Art LaFlamme: We would want it any which way.

Mr. Peter Julian: Yes, okay.

How much time do I have?

The Chair: You have 20 seconds.

Mr. Peter Julian: Mr. Jeanes, you mentioned a number of areas you're concerned about: the fatigue management; the whistle-blower provisions, or lack thereof; and this balance around SMS that a number of us share. With the bill itself, how would you endeavour to fix those, and can the bill be fixed?

Mr. David Jeanes: On your last question, I certainly hope so.

I think with SMS the important thing is that it has to instill a safety culture in the organizations that are going to be responsible for it. That means the idea of a dedicated safety department with a senior or chief safety officer reporting directly to corporate management. This must really be a requirement of the process, because if you bury this function in a line department, subject to budget constraints and below the radar of the corporate management of the airlines, then the safety culture may not be built or may be sacrificed in difficult times—and you've said there will be difficult times. I think you'll hear the same message coming from Justice Moshansky when you talk to him, because he certainly recommended this coming out of the Dryden crash. He believes the introduction of SMS at this time can succeed if it has that kind of corporate culture of safety instilled as part of the process.

• (1615)

The Chair: Mr. Jean.

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

I'm a little confused. My understanding is that we have one of the safest airline industries in the world. The regulations we currently have in place are going to stay, and in fact we're actually tightening them up according to other evidence we've received; we're actually going above the current regulations with this bill, and SMS is a structure that's going to be over the current regulations. And it's not going to be a self-regulating situation, but will consist of the current regulations of Transport Canada along with a safety management system. That is not a self-regulating system, but a system that reads more efficiency and safety in the environment, to my understanding. I see you nodding your heads.

I'll finish up, Mr. Jeanes, but I have one other comment. My understanding is that we are going to have the same audit and same inspection system that is currently in place and that we're asking for more, not less. I am quite concerned, as are the rest of the members on this side of the table, with some of the comments made by Mr. Julian and Mr. Laframboise.

Mr. Chair, we do have someone from Transport Canada who could possibly answer these questions, and though it depends on what the committee wants to do, I would certainly invite him to the table to respond to some of these comments, because they concern me, quite frankly.

The Chair: Well, I think we'd like to hear from our current witnesses. I think you've asked a question, and I would ask Mr. Adams to respond and then Mr. Jeanes.

Capt Dan Adamus: In our view, SMS is above and beyond the current regulations in place. We think it's a benefit to the safety side of the industry, which is paramount not only to pilots but obviously also to the whole travelling public. Again, it allows you to identify problems that probably wouldn't have been picked up through the traditional methods, and they will be acted upon; it will now be law that they have to be acted upon if they are brought forward, and SMS absolutely has to enhance safety.

Mr. Brian Jean: Mr. Jeanes.

Mr. David Jeanes: I'm interested in your comment about Canada having a very fine safety record in aviation, which is correct; we do. The public have had confidence in it and must continue to have

confidence in it. We've had an allusion from the other side to the problems that have happened with railway deregulation, which has led to a public perception—and certainly a media perception, if you watched *W-FIVE* on CTV last week—that safety standards have declined very, very markedly in the railway industry in Canada since this kind of deregulation happened.

I would also say, though, that many of the safety provisions that make our airline industry very safe have, unfortunately, resulted from investigations into tragic accidents. Most of the fire measures that are used worldwide now, in terms of smoke detectors in washrooms and emergency exit lighting and so on, stem from the investigation into the Air Canada DC-9 fire in Cincinnati in 1983 that claimed 23 lives. It took an accident to greatly improve the safety of aviation. It's the same with the Dryden crash, as much of the safety of our de-icing procedures today stems from that tragic crash, again with 24 people killed.

One of the leaders in the safety field, Dr. W.O. Miller from the National Transportation Safety Board in the United States, has actually proposed that nations should have the idea of having a TSB-type inquiry on a routine basis every 10 years or so, as though some catastrophe had happened, just to go in and ensure.... And you need the expertise to be able to do that.

Mr. Brian Jean: I understand that.

Mr. David Jeanes: I'm sorry if I'm launching off in another direction.

Mr. Brian Jean: Actually, that's all right.

This isn't the railway industry. It's an industry and it's certainly not in the same context of deregulation. That was a self-regulating situation, and this is not that.

My understanding is Australia went through the same sort of situation with their air.... They deregulated it or let it be self-regulated, and then discovered that they shouldn't have done that and went back to the regulations with an SMS system on top, or something similar, and it was very successful after that. So this is not the same as a railroad industry.

What I'm curious about, Mr. Chair, is if indeed the other committee members would let Transport Canada respond to that, because it is a situation where we could have the witnesses provide information.

• (1620)

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Mr. Chairman, might I suggest instead that there may be a number of these questions emerging as we go through different meetings and different witnesses. Perhaps we should reserve the ability to reconvene Transport Canada officials, perhaps even the minister, before we conclude and get to our clause-by-clause study. That might be the best way of dealing with these.

The Chair: Actually, the note I made here is the fact that we do have people here who will take note of the comments and concerns, and then we will probably have Transport come in at the end to answer all the questions collectively.

Mr. Brian Jean: Those are my questions, Mr. Chair.

The Chair: Before I go to Mr. Bélanger, I attended an air pilots' meeting in the United States this past summer. I hate putting numbers on the record without...but perhaps Mr. LaFlamme can tell me. If I understood it correctly, they said 30 years ago, for one person out of every four million people in the air, there was an accident that caused serious harm; today it's one in 16 million flights. It was an astronomical number that they used, and I never had a chance to question anybody on that.

Mr. Art LaFlamme: Those numbers are close. I can't say definitely that they're accurate, but they're close, yes.

The Chair: It was just an astronomical number. At that time, I thought that was a pretty amazing number.

Mr. Bélanger.

[Translation]

Hon. Mauril Bélanger: Thank you, Mr. Chair.

[English]

I want to go back to your admonition, Mr. Adamus, that essentially you find the legislative language quite broad, subject to these self-regulated organizations or third parties.

If ever there's a matter that has to go before the tribunals, what will be important in the case, undoubtedly, would be the intent of the legislator.

I've reread the clause while this was going on—clause 12. If indeed what you're saying is the intent, it's not reflected in the clause as it is currently before us. So I need to know if you can tell us...and I'm quoting you here:

We have been advised by Transport Canada officials that this provision is meant to address only low-risk, non-air transport areas of the aviation industry.

I'd like you to elaborate here. Who are these officials, and how did they advise you?

Capt Dan Adamus: We met with officials of Transport Canada on this bill, and we had some concerns.

Hon. Mauril Bélanger: Who?

Capt Dan Adamus: Merlin Preuss.

Hon. Mauril Bélanger: He's the director general, right?

Capt Dan Adamus: The director general, yes.

Hon. Mauril Bélanger: He was the gentleman who was here on Monday.

Capt Dan Adamus: Yes, and we had some concerns in this area. He told us this was not the intent; it was intended for other areas.

Hon. Mauril Bélanger: Was this exchange ever put in writing?

Capt Dan Adamus: No. We are 100% confident that his word means well—

Hon. Mauril Bélanger: I'm not doubting that in the least.

Capt Dan Adamus: —and I have no reason not to believe him. And besides—

Hon. Mauril Bélanger: Hold on, Mr. Adamus, I wouldn't want you to inadvertently give the impression that I am questioning his word either. That's not what I'm trying to do here. I'm just trying to get the facts on the table. Fair enough, sir?

Capt Dan Adamus: Fair enough, absolutely.

Hon. Mauril Bélanger: My colleague asked if you would elaborate as well on your recommendation that the committee obtain, for the record, such an undertaking from the minister, and I'm quoting again what you had told us. My colleague Mr. Volpe asked how you propose that we do that, and you didn't have enough time to provide an answer. I'm going to leave you enough time to provide that answer.

Capt Dan Adamus: A very good question.

I think Mr. Tweed's suggestion of having Transport Canada officials back at a later date...and I believe at that point they could probably answer that question.

• (1625)

Hon. Mauril Bélanger: I understand that, but if you're recommending that we as a committee obtain for the record such an undertaking, in what format would you suggest that record be obtained?

Capt Dan Adamus: I think as a witness here on the stand, it could be a verbal record, or it's in the purview of the committee what they would request from the Transport Canada official.

Hon. Mauril Bélanger: Fair enough.

If we couldn't obtain that commitment, whichever method we used to try to get it, and if it were indeed the will of the committee, would you be supportive in suggesting that we amend the section to restrict its extent or what it could be used for?

Capt Dan Adamus: We would have to look at it seriously again. Again, before you got into third-party regulation, it would have to go through the CARAC process, so there would be an opportunity at that point, and we would certainly bring up the point that it is on the record that it was not the intent originally, so there would be an opportunity there. But certainly, we would have some issues.

Hon. Mauril Bélanger: I imagine, though, that in your industry it is the same as many areas of human endeavour, that it's better safe than sorry. As my colleagues Mr. Laframboise and Mr. Julian were pointing out, now that this is before us, our role is to make sure legitimate concerns are addressed. So I would reiterate the invitation that I think Mr. Laframboise made to you, that if indeed you believe an amendment might be in order, I would certainly welcome such a thing from the pilots association for our consideration.

Capt Dan Adamus: Okay, we will take that under advisement.

Hon. Mauril Bélanger: I have a general question for Mr. Jeanes —and it's not covered in this, so the chair might rule me out of order here because it might not be in the law. But I remember that in the aftermath of the September 11 attacks in Washington and New York, the insurance industry withdrew somewhat from coverage and the government had to step in to provide some sort of self-coverage.

In the view of Transport 2000, should that be something that all governments or public authorities consider doing on a permanent basis, and not wait to be put into these kinds of situations that occurred back then?

Mr. David Jeanes: I think, Mr. Bélanger, the regulation of the insurance industry is far too complicated a matter. I can think of analogues in completely different areas; you know, there are churches that are having trouble getting insurance to cover some of their normal activities. So it's not just airlines that have that problem. Certainly the consequences of 9/11 changed many things relative to the aviation industry, and I don't think those are really the matters that are being considered in these revisions to Bill C-6 at this point.

We do think it's very important that the public understand what's going on. For example, if it's the case that the airlines really are unable to obtain appropriate insurance, then that's a serious safety issue that the public should be aware of in making their travel decisions, or in fact in making representations to government about what they want government to do about such a situation. But I don't think it's directly part of these amendments.

Hon. Mauril Bélanger: I understand that.

Thank you.

[*Translation*]

Thank you, Mr. Chair.

The Chair: Mr. Carrier.

Mr. Robert Carrier (Alfred-Pellan, BQ): Good afternoon, sir. Thank you for being here.

I too am somewhat apprehensive, especially about the designated organizations.

First, does your pilot association automatically include airline pilots, or only a certain class of those pilots?

[*English*]

Capt Dan Adamus: No, we don't have any restrictions as to who can join our association. Any airline pilot group is more than welcome in our association. We're actively looking for more members right now as we speak; it is ALPA's goal to represent all pilots in Canada and in the United States right now.

[*Translation*]

Mr. Robert Carrier: Could we say that you mainly represent the large airlines rather than just the small companies, like the commercial airlines?

• (1630)

[*English*]

Capt Dan Adamus: We do not represent pilots on the corporate side of the industry. However, we do represent pilots at Bearskin Airlines, a small carrier that has 60 pilots; Calm Air, with maybe 85 pilots, northern operations; pilots in the cargo industry at Kelowna Flightcraft; pilots at Air Canada Jazz; pilots at CanJet; and pilots at Air Transat.

[*Translation*]

Mr. Robert Carrier: Thank you.

You've expressed your support of the safety management system. In addition, based on what you said and from what I understood, some companies are already using this system, and that moreover is what leads you to believe that it's a good system that could be expanded. Is that correct?

[*English*]

Capt Dan Adamus: That is correct. It is in place at a number of airlines right now. I believe Air Transat was one of the first airlines to implement SMS. From talking with their pilot representatives, I know that they're very happy with the way it works. They've noticed significant improvements in the safety structure of their airline.

I'm with Air Canada Jazz, and we have an SMS policy in place right now. It's doing a great job of increasing safety as well.

Again, all pilots are unanimous that this is the way of the future in order to help improve safety going forward.

[*Translation*]

Mr. Robert Carrier: The fact that you believe it's a good system means that it will surely improve safety, and that's why you're in favour of it. Why use this safety management system in particular?

As a parliamentary citizen, I assume that the Minister of Transport is imposing a good safety system on all airlines. Why isn't this already being done, and why do we need an act to talk about it and impose it?

[*English*]

Mr. Art LaFlamme: This legislation, as we understand it, provides for a more effective implementation of SMS, but Transport Canada has already proceeded with regulations requiring aviation companies to have a safety management system. So this legislation just goes beyond, I guess, the current regulatory powers.

[*Translation*]

Mr. Robert Carrier: I come to the organizations designated to monitor implementation of this system, as provided by the act. In my opinion, this is somewhat the bill's weak point. The important point is that a good safety system should be introduced and imposed by the government.

Why should we rely on a self-controlled organization designated by the community? Are we going through an intermediary to ensure the implementation of a good system because of a lack of staff at the department?

[*English*]

Capt Dan Adamus: No. With all due respect, that's not the intention. There's still a regulatory framework in place. There's still oversight by Transport Canada. All SMS does is go above and beyond what's currently in place.

There has been a fair amount of talk about Transport Canada losing inspectors. That's not something we're involved with as an association. We see that there are still audits done on a company's SMS system. If there are problems within that, it goes back to the more traditional audit.

From what we've seen so far, there haven't been any fewer inspections than what went on in the past.

[Translation]

Mr. Robert Carrier: Then...

[English]

Mr. Art LaFlamme: With respect to the designated organization, we can understand that there might be application in such operations as sport parachuting or ultralight aircraft, but we don't see it applying to operations where, say, a passenger is paying a fee.

I don't know what the future will hold, or what the evolution of things will be, but we do not feel it applies in our environment, the designated organization. We do not see the Air Transport Association of Canada regulating airlines on behalf of Transport Canada.

•(1635)

[Translation]

Mr. Robert Carrier: Except that I don't think the act defines the areas of application of the designated organizations. It's a bit vague.

[English]

Mr. Art LaFlamme: The act is quite broad in its language and we leave it to the wisdom of you legislators with respect to how broad that is.

The Chair: Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair. What I'm hearing here at the table are two different perspectives.

The word that has popped up a number of times is the word "self-regulation". I confess, I used it at our last meeting when we had Transport Canada officials present here. I remember Mr. Preuss of Transport Canada actually becoming somewhat agitated and jumping into the fray, saying this is not self-regulation, that this is taking an existing regulatory process that is among the safest in the world and superimposing upon that an SMS system, which makes the system even more robust.

Mr. Adamus, am I correct in characterizing your understanding of it?

Capt Dan Adamus: Yes, absolutely. When we talk about security in the aviation industry, I guess I could refer to it as different layers of security. SMS is just another layer of safety. It's an add-on; it's a bonus. It's going to identify problems that wouldn't normally be identified under the old practices.

Mr. Ed Fast: Again, I will refer back to Mr. Jeanes' testimony. He mentioned that often it takes an accident before we actually improve safety within the industry. It seems to me that SMS actually allows us to improve safety without waiting for accidents to happen. We actually engage the employees within the industry to identify problems without fear of retribution. They have immunity and they have confidentiality available to them.

I suppose my question leads to this. You've had experience with SMS systems, as have some of your members. You mentioned some airlines, both in Canada and the United States, that have already implemented SMS, superimposed upon existing regulatory structures. What has the experience been with those airlines?

Capt Dan Adamus: I mentioned earlier that it's all positive so far. We have not heard of any negative feedback.

You brought up a good point, and I actually wrote down in my notes, when Mr. Jeanes was speaking, about getting data from accidents. That's exactly what SMS does. It gets data, but luckily it's not from an accident; it's just from an incident or something that has happened out of the regular routine.

We take that data, we analyse it, and we say, how can we make it better, safer? That's when we make changes, and that would not normally happen without an SMS in place. How else would you collect the data? We don't always want to wait for an accident.

Mr. Ed Fast: I will follow up on that. We've heard it suggested at this table that the number of inspections or inspectors has gone down in recent years. You already said you're not aware of that being the case. Unfortunately, Transport Canada isn't available right now to provide additional testimony.

Mr. Jeanes, are you aware of the number of inspections declining in recent years?

Mr. David Jeanes: We certainly don't monitor the number of inspectors in Transport Canada. Our information comes from sources such as Justice Moshansky's talk last September.

I'd like to say again that we're not coming up with these ideas. I would like to directly quote from his paper, where he stated:

I now understand that senior transport officials have publicly conceded that lack of funding, again, is behind the current promotion of the Safety Management System concept, which on the face of it anticipates at least a measure of self-regulation by the carriers themselves.

That is a perception of Justice Moshansky. We see that kind of thing and we consider it ourselves.

We have certainly benefited from our participation in a consultation group like CARAC, from seeing, for example, the daily occurrence reports, where even small incidents were regularly made known within the industry so that you could see trends happening.

Then, a couple of years ago, the distribution of that kind of information was cut back because of concerns that the information might be confidential, might be misused, might be prejudicial to carriers, and so on.

We have certainly never abused having that kind of information. It made it possible for us to do exactly the kind of thing you're describing as a benefit of SMS, which is having the actual employees and the employees charged with safety responsibilities learning from small incidents, to avoid big incidents. That's a part of the culture of openness that we think must be continued.

•(1640)

Mr. Ed Fast: But I didn't read into Justice Moshansky's comment that the number of inspections had in fact gone down. It just raised a concern about the fact that due to funding pressures SMS was looked to as a possibility.

Mr. David Jeanes: Yes, but also it has been observed there are impending retirements of large numbers of qualified people in the inspection establishment.

Mr. Ed Fast: But those are impending?

Mr. David Jeanes: Yes, that's correct.

Mr. Ed Fast: It's not necessarily a case of current reductions in inspections?

Mr. David Jeanes: That's correct, yes.

Mr. Ed Fast: Okay. I'm looking forward to hearing Justice Moshansky, because he will have a chance to explain his comments.

Thank you, Mr. Chair.

The Chair: It's our last round.

Mr. Laframboise, one last go.

[Translation]

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

I just want my Conservative colleagues to understand me clearly. I was listening to Mr. Fast and the others. I think we can say that the safety management system can constitute an additional safety element, provided we can properly oversee the system.

As you said a little earlier, we need oversight. When I questioned you, you told me that the way the inspectors work was going to change. They'll no longer conduct inspections as in the past; they won't conduct any more detailed technical inspections in the traditional way. That troubles me a little.

I want my Conservative colleagues to understand clearly. If we no longer rely on the public service, if we no longer have the expertise here, when a problem arises, a systematic inspection will have to be conducted, as you said. If we no longer have the staff to do it, we're going to direct a private firm to do it.

We must ensure all that so that safety is even better. If we let the industry do things and don't ensure inspections are done, we risk having a safety problem. That's the problem. I believe that the other witnesses appearing before us, including the inspectors who will be coming to meet with us, will say that. We could also invite the Transport Canada representatives again; I agree with my colleagues.

In my view, until we have made sure we have the staff to intervene, who are able to conduct an inspection, that's fine with me. However, if the inspectors become merely checkers and no longer have the qualifications because they haven't been trained to conduct technical inspections, there will be a problem. I also think you'll have a problem.

It's good that you trust everyone and yourselves, but, as I told you earlier, a number of companies will enter the market and a number of them will close their doors. We risk having safety problems with those kinds of companies. That won't be the case of a reliable, well-established company. So we have to oversee all that.

I hope you'll agree with me that we first need to ensure we have an oversight system that meets users' expectations.

[English]

Capt Dan Adamus: Thank you, Mr. Laframboise.

Absolutely, we need to maintain oversight of the company's safety management system, as well as regular inspections. As to your comment about new inspectors coming in and not being qualified,

that's something to be directed at Transport Canada. We have full confidence that anybody they hire has been trained properly and will do the inspections correctly.

You referred to established airlines, which are safe, and that's not your main concern, but possibly the newer airlines that come in. If I were in Transport Canada, I would suggest that a new airline probably has even more oversight. They probably take a look at them even more. That's a question for Transport Canada officials, but I would guess that's the way it works right now. They would be required to have an SMS system in place before they got an operating certificate and there would be inspections. Again, I have full confidence in the system. I have repeated many times, and will continue to say, that it's just another layer to improve safety.

Pilots are perfectionists; they want everything done absolutely right. I can assure you that if they report something and a company doesn't follow through with the SMS program, they will report it in a second—guaranteed—and that will get through and put their program in jeopardy. So I can assure you there won't be any holes in the system; it will work, and Transport Canada will know if there's a problem with it.

• (1645)

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I do have a couple of comments to make before I come back to questions. We certainly appreciate your coming here today, because you provide an interesting perspective, but the background to this is comments made by the government itself. The ADM said on April 25, 2006: "There must (be) a willingness on the part of the regulator"—that's Transport Canada—"to step back from involvement in the day-to-day activities of the company in favour of allowing organizations to manage their activities and related hazards and risks themselves." In wanting to allow organizations to manage their own risks or hazards, there's a clear intent of the government not to push for an extra layer of safety and security, but rather to step back essentially from involvement. That's our concern, and when we look at the lack of planning around providing for inspectors and providing for the attrition rate, there are some real concerns that come up around this legislation.

Last year, as I'm sure you are aware, *The Toronto Star* and *The Hamilton Spectator* did a really terrific series of articles on mechanics within Air Canada Jazz who had raised safety concerns that had not been dealt with internally, and those mechanics had gone public and were suspended. So I think the issue raised is a clear one, that it is possible in a system like this where there isn't the foundation for a carrier to try to cut corners. We would want to ensure we prevent that.

So coming back to all the examples we've cited in marine safety and railway safety, and in Australia and the United Kingdom, have you covered off within this legislation all of the weakness that have transpired in previous examples of SMS? Can any of you three say with complete and absolute assurance that you believe all the bases have been covered, or do we really need to get into this legislation and see if we can plug holes or gaps?

I'll start with Mr. Jeanes, because you've raised a number of concerns you have with the legislation. You did say you were in favour of it, and I'm not quite sure why, because the concerns you raised are significant ones.

Mr. David Jeanes: I think with respect to SMS, we certainly recognize that introducing a corporate culture of safety is very important. The concept of a safety department and of a chief safety officer, and of the visibility of safety going right to the senior management level, is very important and can provide the kind of proactive improvement of safety Mr. Fast referred to. But it is always going to be subject to the bottom line, and ours is just a caution that Transport Canada not relinquish its ability to provide sufficient surveillance that these SMS processes are working. You would no longer have Transport Canada inspectors doing every job that can perhaps be done better by the airlines with their own employees, but Transport Canada would still have the ability, either on a spot-check basis or by auditing, to know that the processes themselves were effective by talking to the safety employees and the chief safety officer in each company, to have confidence in that process.

So, yes, there really are significant benefits to implementing this regime, but it must be done in a way that ensures that Transport Canada oversight is there and, ultimately, that the public still have confidence that the government is ensuring a safe airline industry.

• (1650)

Mr. Peter Julian: But from the concerns we've raised about the attrition rates and the cutbacks in Transport Canada, and the intent of

the government to take that significant step back, can you say with 100% assurance that you think this is the way to go, given that you've raised a number of very real caveats?

Mr. David Jeanes: Yes, and I can't do a clause-by-clause redraft of the law for you here; we don't have the ability to do that, nor have we really had the time to evaluate it at that level. It's just that if these changes are used by the department as an opportunity to downgrade its investment in inspection capability, that would be a mistake—unless that reduction in department manpower is fully compensated by the introduction of the corporate safety culture through SMS. And that's a balance that the department must ensure. The law mustn't just create a situation where they're out of the picture legislatively and where we have in fact devolved too much to a self-regulation situation.

I recognize that SMS is about instilling a corporate safety culture, rather than just totally devolving regulatory responsibility, but it's a balance that has to be handled carefully, and that's our message, rather than saying, don't make this specific clause-by-clause amendment.

The Chair: Thank you, Mr. Jeanes.

I think the information provided by both groups today will give us lots of questions for Transport Canada to resolve when they come back. I think a lot of questions, perhaps, asked in the latter part should be directed to Transport Canada for answers.

With that, I thank you very much for attending. I appreciate your comments, and I'm sure we'll hear from you in the future. Thank you.

If you like, we'll take a five-minute recess to let people move out. There are just a few things that I would like to briefly discuss with the committee in camera.

[Proceedings continue in camera]

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