



House of Commons
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 039 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Wednesday, February 28, 2007

—
Chair

Mr. Merv Tweed

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Transport, Infrastructure and Communities

Wednesday, February 28, 2007

• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Thank you, and good afternoon, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number 39.

Pursuant to the Order of Reference of Tuesday, November 7, 2006, we are examining Bill C-6, An Act to amend the Aeronautics Act and to make consequential amendments to other Acts.

Joining us today we have Mr. Virgil Moshansky. We welcome you today. Although we are short a couple of members, in order to deal with the time factor, I'd ask you to begin.

Hon. Virgil P. Moshansky (As an Individual): Thank you, Mr. Chairman.

Mr. Chairman and committee members, it is a distinct privilege to address you on this occasion. My name is Virgil Moshansky. Some of you may know me as the commissioner of the inquiry into the Air Ontario jetliner crash at Dryden, Ontario, in 1989 that killed 24 people. My commission became a full-blown inquiry into aviation safety in Canada that took three years to complete.

I spent a further three years advising Transport Canada on the implementation of my commission's 191 recommendations for regulatory reform. My work has been recognized by many, including Transport Canada itself, which presented me with its Canadian aviation safety award in 1995. I continue to consult internationally on aviation matters.

I will deal primarily with clause 12 of Bill C-6. In order to put things into context, I will begin with a little pre-Dryden crash history.

Transport Canada's regulatory efforts went off the rails in the 1980s because of two inconsistent and mutually incompatible policies introduced in 1985 by the federal government of the day, namely deregulation of the airline industry and the policy of fiscal restraint.

Despite government assurances such as are being heard today that aviation safety would not be allowed to be compromised, Transport Canada upper management ignored urgent requests by managers in the aviation regulatory directorate for funding of the badly undermanned inspectorate force. Airline audits and in-flight monitoring, the twin backbones of aviation safety, ceased almost entirely in the months leading up to the Dryden crash, because of a lack of resources.

A cursory Transport Canada audit of Air Ontario five months before the March 10, 1989, Dryden crash, did not even examine the Air Ontario F28 aircraft implementation program. Lack of regulatory oversight virtually left Air Ontario to its own devices, allowing it to set its own inadequate safety standards and enabling it to get away with unconscionable safety deficiencies in its operations, all of which contributed to the crash.

A January 20, 1989, prophetic warning by the acting chief of air carrier operations that air carrier inspection was "no longer able to assure the Minister of the safety of large air carrier commercial services in Canada" and "that a major accident is inevitable in this country" was rebuffed by Transport Canada senior management as inflammatory. Seven weeks later, at Dryden, Ontario, 24 people paid for this cavalier attitude with their lives.

Today, 18 years after Dryden, history is repeating itself, only worse. Cost-cutting is again in vogue at Transport Canada and has been for some time. Transport Canada management have publicly admitted this. Regulatory oversight is not being merely reduced. Except for limited focused audits, it is being systematically dismantled under Bill C-6. All of this is occurring in the face of a predicted doubling of the size of the aviation industry by 2015, as per Transport Canada's own estimates.

In the years following the release of my final report, Transport Canada did a commendable job of addressing most of the major safety issues and regulatory lapses that were identified by the Dryden Inquiry.

• (1540)

After a period of relative calm, numerous serious aviation safety concerns have now returned to haunt the Canadian aviation system, as documented in a remarkable series of newspaper articles in June of 2006 entitled "Dangerous Skies", written by three investigative reporters of the *Hamilton Spectator*, *Toronto Star*, and *Waterloo Record* newspapers. I recommend that the committee members read these articles, if they have not already done so.

In my view, any objective observer would have to call their findings disturbing. They simply should not be dismissed out of hand, as some have attempted to do. What stands out is that the current deterioration in the state of aviation safety in Canada, as chronicled by these investigative reporters, is coincidental with Transport Canada's progressive reduction in the number of its aviation inspectors since Dryden and its ongoing withdrawal from regulatory enforcement.

This is an ominous sign for the future of air safety in Canada, particularly if Bill C-6 is allowed to proceed in its present form. Many front-line aviation industry workers, expressing fears for their jobs, spoke out on condition of anonymity, but a number of brave souls allowed their names to be published. A few of the latter drew the wrath of their airline employers. Some were suspended for speaking out, thereby highlighting the urgent need in Canada for meaningful whistle-blower legislation.

I am very surprised and disappointed that unlike the case in the United States, the new Canadian whistle-blower legislation provides no protection whatsoever for airline employees, who are the front-line workers closest to the problems and the violations and therefore most in need of such protection.

Clearly it is in the public interest that they be encouraged to report infractions and therefore that they have such protection. I strongly urge this committee to press for whistle-blower protection similar to that in the United States.

Having examined the recent Pollara survey of aviation inspectors, it seems to me that this committee would benefit greatly by hearing from some of these inspectors. The committee must certainly view with concern the alleged attempt on the part of the regulator to dissuade them from appearing before it.

There are many good features in Bill C-6. I most certainly agree with the requirement that each air carrier have in place a safety management system, or SMS, with safety accountability vested in a top executive. This in fact is exactly what I recommended in MCRs 100 to 103 of my final report, which recommendations probably, unknown to most, represent the genesis of present-day SMS.

However, I must voice major concern with the second objective of the SMS initiative, which is the downloading from Transport Canada onto the air carriers of the responsibility of establishing and carrying out their own safety protocols and oversight of regulatory compliance, including enforcement.

I respectfully submit that if SMS is to succeed, it must be accompanied by an effective, properly financed, and adequately staffed system of oversight and enforcement on the part of the regulator. That is the key factor that is missing from the Transport Canada SMS initiative, and it has the overwhelming potential to be the Achilles heel of SMS, especially in the case of secondary carriers, the charter and air taxi operators.

● (1545)

Historically, this is the area where the bottom line has the greatest impact and where the greatest risk to aviation safety resides. Some are barely economically viable operations and simply do not have the financial ability of the major carriers to maintain a proper SMS. It is extremely naive to think that under SMS a financially strapped operator is, on its own initiative, going to place necessary safety expenditures ahead of economic survival. The historical record hardly inspires faith in the voluntary implementation of safety measures by some such carriers, especially in the absence of strong regulatory oversight.

It is of very great significance that in those few countries that have introduced a form of SMS into their civil aviation systems, not a single one has abandoned regulatory oversight. Think about that.

The SMS concept relies on self-reporting of violations and safety concerns by airline personnel. This is a potential weakness of SMS. Historically, self-reporting and even confidential reporting is a hard sell. Fear of peer recrimination is a serious inhibiting factor that militates against such reporting, as is also the fear for job security. The absence of whistle-blower protection compounds the problem.

Transport Canada refers to the Australian experience with SMS in support of its own SMS initiative. The problem is that Transport Canada is only telling half the story. It leaves out the part about regulatory oversight.

Most significantly, under the Australian SMS regime, a strict regulatory oversight responsibility for monitoring surveillance and enforcement rests with the Australian Civil Aviation Safety Authority, or CASA, Australia's equivalent to Transport Canada. The CASA SMS manual places the obligation on CASA itself to enforce civil aviation laws pursuant to the Civil Aviation Act of 1988.

Excerpts from pertinent sections of the CASA manual state the following. Section 2.2:

The Civil Aviation Act 1988 places responsibility on CASA to conduct the safety regulation of civil air operations...by means that include 'developing effective enforcement strategies to secure compliance with aviation safety standards'.

That appears in CAA 9(1)(d).

The following statement of policy is of particular significance. "The key focus of CASA's enforcement will be to address safety by consistent and appropriate enforcement action."

The former manager of flight safety at Qantas Airlines and deputy chairman of Airservices Australia, has stated the following:

It seems that what is proposed in the Canadian Bill goes beyond anything I have heard of with an NAA (National Airworthiness Authority) and would seem to abrogate one of its core functions (perhaps even under the Convention itself and possibly Annexe 13 re safety systems.

The translation is that Transport Canada's approach to SMS may well be in violation of international aviation law.

● (1550)

My Australian source goes on to say, and I quote:

...no attempts have been made...

—that is, in Australia—

...to lessen the amount of surveillance - recently CASA changed from conducting two annual audits to one, but would have many more operational surveillance activities and more unannounced surveillance.

It occurs to me that Transport might already have done some benchmarking with Australia, in which case the committee should insist on seeing the results and conclusions. The committee may wish to seriously consider this suggestion.

There is an important difference between the present situation and that at the time of Dryden: Transport Canada policy is now being dissected in public and in advance of legislative enactment. There is still room for positive change.

In the interests of the safety of the Canadian air-travelling public, I urge this committee to reject the proposed dismantling of the aviation regulatory oversight system as implicit under clause 12 of Bill C-6, which is already under way, and to prevail upon the federal government to provide adequate funding to Transport Canada to enable it to carry out its traditional regulatory oversight and enforcement functions parallel to the SMS initiative, and to meet its obligations under the ICAO convention and avoid the slippery slope to another Dryden.

Finally, I pose a question. Has the time perhaps now come for a system-wide inquiry to be held again in Canada to test the aviation system's vital signs? The widespread aviation safety alarms emanating from within the front lines of the aviation industry, as well as serious questions about the Bill C-6 clause 12 initiative, strongly suggest that indeed the time for such an inquiry has arrived. Eighteen years after the disaster at Dryden, now is the time for the federal government to assume a proactive approach to taking the pulse of aviation safety in this country, by establishing an aviation safety inquiry under the Inquiries Act to conduct an in-depth, system-wide check on the current state of commercial aviation's vital signs in Canada before another major air disaster occurs.

I submit, with respect, that this committee should consider recommending such an inquiry, and I thank you.

The Chair: Thank you, Mr. Moshansky.

Go ahead, Monsieur Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Thank you, Mr. Chairman.

Mr. Moshansky, first of all, I offer my apologies for arriving a couple of minutes late, but I got caught up in your testimony because you were very kind to have it in writing in both languages.

This is the most food for thought that this committee has received thus far on this bill, and I thank you very much for that, sir. I will need a bit more time to play your testimony against the act, but my first conclusion is that you zero in on the same section that many of us at the committee were zeroing in on, clause 12, which is the entire thing about designated organizations.

If I were to conclude that your testimony essentially argues that clause 12 constitutes some sort of abandonment by Transport Canada of its regulatory duties, would that be out of line?

Hon. Virgil P. Moshansky: I think it's fair.

Hon. Mauril Bélanger: That's fair. Okay.

I had one in particular, but it applies to most of clause 12, and I'll read it to you, because it's the one that sort of struck me as a bit of a catch situation. It's proposed new subsection 5.31(3):

(3) A designated organization has all the powers necessary to monitor compliance with the standards and rules that it establishes.

That seems to me to be a self-enclosed system once someone is designated, whoever they may be, and there's been some discussion

among witnesses as to what those organizations may be. We're told they may be low-risk, and I've been trying to get a definition of what that is. We've got some more to do there as a committee, as far as I'm concerned, but it seems to me that it's a closed system, in that once an entity is designated, basically it can set the standards and the rules it wants, and it has the power to enforce them.

Is that your interpretation, sir?

• (1555)

Hon. Virgil P. Moshansky: That's the way I read it. Each airline will have the capacity to set its own safety standards.

Hon. Mauril Bélanger: Let's presume for a second that it becomes law; we're not suggesting that it will, but let's presume. That's the task we've been asked to do—to consider that. What safeguards should this committee, in your view, introduce specifically to this section? If indeed we allow SMS to continue as they exist now, what specific restrictions would you want to impose? I sense that they're all in your testimony, but I'd like to apply them to clause 12. To phrase it another way, which of the elements of clause 12 do you think this committee should not accept?

Hon. Virgil P. Moshansky: What I see is the necessity of importing into clause 12 a provision requiring regulatory oversight by the regulator, Transport Canada. If you do that, I think you will have a very effective system. At the moment, it's quite clear to most objective observers that Transport Canada is getting out of the business of regulating the carriers to a large extent, except for what they call "focused audits". Those are in no sense audits that would enable an inspector to get an overall picture of the carrier's operations. They will be focused on the—

Hon. Mauril Bélanger: Do I still have some time?

I'd like to explore something else. On Monday we had testimony here from the airport association and from the people who build the carriers. My sense is that they will all be looking for this designation as a designated organization under clause 12, so it might not just be carriers; it might be those who build, those who operate the airports, and so forth. Does that add to your angst?

Hon. Virgil P. Moshansky: It certainly does, because you'll have airport authorities setting standards with nobody looking over their shoulder—not effectively; there may be some cursory audit.

Hon. Mauril Bélanger: Mr. Chairman, I may have some questions on a subsequent round, but I'm very satisfied with the answers I have received thus far. It behooves us to pay heed to the testimony we've heard today.

Thank you.

The Chair: Mr. Carrier is next.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): Welcome, Mr. Moshansky. Thank you for having come here to share your knowledge of this field with us.

You say that clause 12, that talks about designated organizations, is the part that worries you the most because this could allow Transport Canada to withdraw from its responsibility. However, representatives from the air transportation industry told us on Monday that if we were to remove clause 12 of the bill, we would be eliminating its very purpose.

What do you say to that?

[English]

Hon. Virgil P. Moshansky: That's partially correct, because if you take clause 12 out, you don't have SMS. What I'm saying is don't take SMS out of clause 12; put in additional responsibility on the part of the regulator to carry out its oversight function of the carriers and whoever else is involved.

[Translation]

Mr. Robert Carrier: However, some companies have already put this system in place, for example Air Transat and Air Canada. This system already exists. Should the bill impose this system so that at least all companies are obligated to have their own safety management system?

[English]

Hon. Virgil P. Moshansky: An SMS system is certainly one that should be encouraged. For some years now the major carriers have had their own safety organizations within the carriers, and they're doing a great job. I don't think you have too many worries with the major carriers; the worries, I think, are in the secondary or tertiary carriers and, as I mentioned, taxi operations, ambulance service operations, and other sorts of operations that are running on marginal economics.

• (1600)

[Translation]

Mr. Robert Carrier: Despite all of the good things you have to say about safety systems—and I do believe that they are effective—, you maintain that Transport Canada should nevertheless carry out official inspections in order that we not rely entirely on the safety system's self-regulation.

Am I right in saying that?

[English]

Hon. Virgil P. Moshansky: I'm very strongly of that view.

[Translation]

Mr. Robert Carrier: How might we ensure that the government carry out inspections independently from any legislation? Even the federal inspectors told us that the staff cuts that are already under way will only increase over time. The more we put safety systems in place, the fewer inspectors we will have.

As parliamentarians, how can we ensure that the government's safety system, that of Transport Canada, will be maintained?

[English]

Hon. Virgil P. Moshansky: Well, it's a matter of convincing the government that this is necessary. I think the committee has the power to make a recommendation in that respect, and hopefully the government will seriously consider it.

On the question of the number of inspectors, I might point out that at the time of the Dryden inquiry, there was a shortage of inspectors, which had developed over a period of years prior to the Dryden crash in the 1980s. At the time, there were 1,400 aviation inspectors on staff, and at that time the expert evidence I heard was that they were 400 short of the number required to ensure the full carrying out of their responsibilities.

Since then, there has been a progressive reduction in the numbers of those inspectors. I have seen some figures lately that indicate that the present number of aviation inspectors is in the area of 800 to 850, which is way down from Dryden, almost to half of what it was at the time of Dryden, when it was inadequate.

[Translation]

Mr. Robert Carrier: Is it logical to maintain, within the bill, the implementation of safety systems? Must we impose this obligation upon all companies or all aircraft owners? The Canadian Business Aviation Association appeared before us on Monday, and we came to the realization that small owners are unable to set up safety systems themselves.

Would the bill impose this system upon any business, whatever its size?

[English]

Hon. Virgil P. Moshansky: I understand the Transport Canada initiative to provide, for small carriers, lesser requirements with respect to the SMS system, something that would be affordable to them. But I think every carrier should be required to have a safety organization within it. It may not be as elaborate as the SMS system required of the major carriers, but they certainly should have a safety system in place.

The Chair: Mr. Julian.

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

Thank you, Justice Moshansky, for appearing before us today. You have very impressive credentials, and the work you've done on safety in trying to assure that we have a safe airline system is really a credit to you. I know you've been awarded many awards as a result.

I'd like to come back, because you referenced it in your initial comments, to the Canadian Federal Pilots Association. They testified before us last week.

They have been surveyed, and out of that survey what resulted is that 80% of them—these are the inspectors who guarantee, or try to provide, the safety and security of our airlines—said that this plan, Mr. Cannon's SMS plan, would prevent them from addressing and correcting safety problems in a timely fashion before they happen; 74% of those aviation inspectors think a major aviation incident is likely in Canada in the near future, I assume to the level of the Dryden tragedy; 85% of them are worried about air operators and airports regulating themselves.

Do you share those concerns that were expressed by the Canadian Federal Pilots Association?

• (1605)

Hon. Virgil P. Moshansky: Yes, I certainly do. They reflect the situation that happened pre-Dryden. There was a shortage of inspectors. They couldn't carry out their oversight obligations. In the case of Air Ontario, as I mention in my presentation, they were let loose on their own, basically, to set up their own insufficient standards. I could give you a number of examples of deficiencies in what Ontario did, if you are interested.

For example, when they were first applying for certification, they hired an extremely experienced and competent F28 pilot from another airline. He had close to 30,000 hours, most of them on an F28. They brought him in so as to be able to say to Transport Canada, "We have this experienced pilot on our staff who is going to be overseeing our operation." Of course, they obtained their certification.

Within one month, he was so disgusted with the lack of attention that was being paid to his indication of safety problems that he quit. He quit in disgust. Then, for the next year and a half, Air Ontario had no safety officer in its organization. There was really no safety organization.

Pilots were instructed, for example, to not note aircraft defects in their log books or aircraft manuals, because the entry of some of those defects would have resulted in grounding of the aircraft. What they told them to do was to write these defects down on scraps of paper, which were passed from pilot to pilot, and they were accumulated. And theoretically, I suppose, at some point they intended to look after them.

At one point, two of the pilots, a captain and a first officer, became so concerned with the large number of scraps of paper and defects in these aircraft that they entered them all at once in the operating manual, and the result was the aircraft was grounded. So what happened to them? They were suspended and disciplined for doing so, when they should really have been given a medal.

That's the sort of thing you have to be concerned about.

Mr. Peter Julian: Do you think these elements that are here create a perfect storm that could lead to another tragedy?

Hon. Virgil P. Moshansky: I certainly think it's on the horizon, especially if this oversight divesting is allowed to proceed.

Mr. Peter Julian: I'd like to come to the issue around airline audits. Testimony received last week mentioned three decisions that Transport Canada has taken.

One was taken during the federal election back in December 2005, whereby Transport Canada issued Civil Aviation Directive No. 39, which handed over enforcement and investigation to the airlines themselves.

In March 2006 Transport Canada killed the national audit program, which covers the largest airlines and largest airports.

In October 2006—this is from testimony last week—Transport Canada managers abruptly closed all enforcement investigations into safety violations.

So on the issue you have raised about airline audits and in-flight monitoring, it appears that Transport Canada is backing out from all those important elements that contribute to our airline safety.

Hon. Virgil P. Moshansky: That's absolutely correct.

I might point out a few other things. Canada's national audit program, even before they suspended it, did not meet the standards of other member states of ICAO.

For example, it has a schedule of one audit every three years for air ops, maintenance, etc., whereas other states have a two-year schedule.

For aerodromes, Canada has an audit schedule of one audit every five years, compared to two years in other member states.

An ICAO safety oversight audit of April 2005 cites Canada for permitting a two-year pilot proficiency check, under exemption to regulatory requirements under CARs 703 and 704, which called for one year, and which do not meet the international standard of six months. This could put the bilateral agreements that Canada has with other nations in peril, in my view.

• (1610)

Mr. Peter Julian: So we are in widespread violation of this international agreement?

Hon. Virgil P. Moshansky: I don't know if it's widespread, but it's certainly—

Mr. Peter Julian: Significant.

Hon. Virgil P. Moshansky: They're examples of violation, in my opinion—and this isn't just my opinion.

Mr. Peter Julian: We essentially have had Transport Canada gutting the functions that are supposed to be its responsibility. Do you believe that's a reckless action?

Hon. Virgil P. Moshansky: I'm not sure how to characterize it. It seems to me that it has its basis in underfunding. They don't have the funds to carry out the regulatory oversight, and I think they've come out and pretty well admitted that. They've looked around for places to slash in order to meet the budgets that are given to them, and this was a simple place to go. You could cut a lot out of the funding by cutting out the requirement for regulatory oversight.

The Chair: Mr. Fast is next.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair, and thank you for attending here today.

You have obviously reviewed Bill C-6 and also the Aeronautics Act; you'd be an expert in that area.

Hon. Virgil P. Moshansky: I'm not sure I'm an expert, but I've looked at them.

Mr. Ed Fast: Have you had a chance to review the regulations issued in May 2005, which introduced safety management systems into the aviation industry in Canada?

Hon. Virgil P. Moshansky: I think I have.

Mr. Ed Fast: Have you also had a chance to review the ICAO standard safety management system on which the Canadian one is based?

Hon. Virgil P. Moshansky: Yes. In fact, I have it here.

Mr. Ed Fast: Would you agree that it is a significant improvement in how we address the issue of air safety?

Hon. Virgil P. Moshansky: Yes. I agree that SMS is a significant improvement. I've said that.

Mr. Ed Fast: All right.

In terms of suggestions in your testimony that perhaps there's a massive dismantling of the inspection and enforcement system in Canada, I'd like to quote back the words that you used. You state that "Transport Canada management have publically admitted" that "cost cutting is again in vogue at Transport Canada". You go on to say that:

Regulatory oversight is not being merely reduced, except for limited focused audits, and it is being systematically dismantled under Bill C-6.

Could you first of all define what you mean by "limited focused audits"? It seems to be very restrictive.

Hon. Virgil P. Moshansky: It's right in the Transport Canada material. I can dig it up for you, possibly.

Mr. Ed Fast: If you could.

Hon. Virgil P. Moshansky: They talk about focused audits.

Mr. Ed Fast: They talk about focused audits, but not "limited" focused audits.

Hon. Virgil P. Moshansky: That's my word.

Mr. Ed Fast: Exactly, and that's why I'd like to understand what you mean by "limited focused audits", because that's not the terminology in the bill. The word "limited" wasn't in there.

Hon. Virgil P. Moshansky: What I am saying is that an audit that is a focused audit is a limited audit. It's not a general audit of a carrier's operations. The focus is on a specific area. That's what "focused" means.

Mr. Ed Fast: Okay, but you're not using the word "limited" in terms of limiting the number of audits, are you?

Hon. Virgil P. Moshansky: I am using the word "limited" in the sense that it's a focused audit, as opposed to what is a normal audit.

Mr. Ed Fast: So you're not suggesting that the number of audits would necessarily be reduced below an acceptable standard.

Hon. Virgil P. Moshansky: I'm suggesting the national audit program has been, for all practical purposes, limited. They've cancelled it. You've just heard Mr. Julian read the three sections that affect the national audit program.

Mr. Ed Fast: I'm a little bit puzzled, I will say, because we've had testimony from numerous witnesses, and save and except for witnesses from two of the inspectors' unions, all of the other witnesses were supportive of Bill C-6. They had suggested some fine tuning, and we're looking at—

• (1615)

Hon. Virgil P. Moshansky: Would one of the witnesses be Captain Boucher from the Air Canada Pilots Association?

Mr. Ed Fast: He was one of the witnesses who actually spoke supportively of Bill C-6.

Hon. Virgil P. Moshansky: Captain Boucher phoned me this morning and expressed some concern that only half his message appears to have gotten across, at least to the media, and that is the part that they support SMS.

As I stated in my initial remarks, I don't think there's anybody in the world who doesn't support SMS, but he is concerned about the other part of their review of SMS and the way it's operating with Air Canada. It still requires regulatory oversight, and that's what he told me this morning over the telephone.

Mr. Ed Fast: We actually asked questions of the various witnesses, as to whether they saw Bill C-6 as removing regulatory oversight and accountability from the minister's office to the various airline companies. The large majority of the witnesses said no, and they certainly hoped that wouldn't be the case.

So again—

Hon. Virgil P. Moshansky: Well, it depends what agenda they're coming from, I suppose.

Mr. Ed Fast: Well, it's unfortunate that there are agendas at play here, and that's always my concern, because ultimately it's the safety of the travelling public that's the most important factor.

Hon. Virgil P. Moshansky: That's my only concern. As a matter of fact, I have a personal interest in it. Six weeks after we commenced the Dryden hearings, my younger brother was killed in an air crash east of Yellowknife, and since that time I've had a very serious interest in aviation safety.

Mr. Ed Fast: I can tell you I have as well...because I have a personal friend, a constituent of mine, who lost a son within the last two years in the Georgian Bay accident, with which I'm sure you're familiar as well.

Hon. Virgil P. Moshansky: Mr. Price.

Mr. Ed Fast: That's correct.

Hon. Virgil P. Moshansky: Mr. Price has been in contact with me, as have many people who are concerned with what is happening with this bill.

Mr. Ed Fast: That's correct.

So for us as a committee, and for the government, safety is the paramount consideration here.

I'm just suggesting to you that we've had numerous witnesses who have reviewed the bill very carefully. In fact, we've had two pilots' unions before us for whom, of course, safety for their pilots is critical, as well as the safety of their passengers. They have stated on the record that they actually support Bill C-6 as being a significant step forward in improving public safety.

Hon. Virgil P. Moshansky: They do, but I would point out that both of them at some point in their presentation said they still supported the presence of regulatory oversight.

Mr. Ed Fast: Yes, they did.

Hon. Virgil P. Moshansky: Am I correct in that?

Mr. Ed Fast: Yes, absolutely.

And I'm suggesting to you that Bill C-6 actually doesn't reduce regulatory oversight. It makes it more efficient and makes it more focused, which is the term you used. I wouldn't necessarily use the word "limited", but certainly I think we can all agree that the legislation refers to focused audits.

Hon. Virgil P. Moshansky: It seems to me, based on my experience with the Dryden inquiry, that the most effective way of assuring aviation safety is to have pilot proficiency checks conducted by inspectors in-flight, to have aviation inspectors checking on maintenance procedures of airlines, etc., not relying on the airlines themselves to carry out these functions with minor auditing, which certainly seems to be the direction this program is taking.

Mr. Ed Fast: You used the term "minor auditing". Is that found in the legislation, or is that your term?

Hon. Virgil P. Moshansky: No, that's my term.

Mr. Ed Fast: All right. I just wanted to clarify that.

Thank you, Mr. Chair.

The Chair: Mr. Bell, welcome.

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

It's nice to be back. I apologize for my late arrival, but I was following through on getting some pills.

I missed the early part, but I had the opportunity to read your testimony, sir, and I appreciate your comments.

I gather there are a couple of things you've raised. One is the issue of whistle-blowing, the absence of a reference to whistle-blowing applying to this industry, and that's one of the concerns you've identified. In fact, you say the absence of whistle-blower protection compounds the problem.

The other half of your story, I guess, is the issue Mr. Fast just mentioned about regulatory oversight. Your suggestion is that the references have been to the Australian program and that the difference is that the Australian program has an SMS regime but still has regulatory oversight by the authority.

• (1620)

Hon. Virgil P. Moshansky: Very much so.

Mr. Don Bell: So a safety management system does not by its implication, then, include self-regulation. That's an aspect that it sounds as though only Canada is considering. You're saying of the other countries that they all have some form of regulatory oversight by the governmental authority.

Hon. Virgil P. Moshansky: That's right. Canada appears to be the lone wolf right now in going in this direction.

Mr. Don Bell: To that, you mentioned your concern. In your statement you say, "It is extremely naïve to think that under SMS a

financially strapped operator is" on its own initiative "going to place necessary safety expenditures ahead of economic survival".

As one of the questions I wondered about, and I'm just trying to think where it was, what surprised me was the reference you had to the large airlines. I don't know where the reference was particularly, but you talked about the large airlines. I'm sure they have an interest in safety, because the lack of a safety record can very much affect their ability to market their airlines.

Do you make a distinction between the smaller airlines and the larger airlines? I noticed that somewhere in here you made a reference to the major carriers. You still see that as a problem, do you?

Hon. Virgil P. Moshansky: What I was indicating was that the two major carriers in Canada certainly have very sophisticated safety programs in-house. I don't see any problems with their putting in any additional features that might come up through this SMS initiative. However, in the case of the other carriers—the secondary or tertiary air operators of any sort below that level—you're going to have to make some allowances, because they are not in a financial position to put in sophisticated SMS systems, but that doesn't mean they shouldn't have an SMS system.

Mr. Don Bell: I'm recognizing the difference between size and the ability to have the corporate infrastructure adequate to handle this. Are you concerned, from your understanding of the major carriers, that moving to the self-regulatory system proposed in Bill C-6 will create a problem and increase the risk even with the major carriers, or is that less of a concern to you?

Hon. Virgil P. Moshansky: It certainly would not increase the risk. Major carriers already, as I've said, have very good systems.

Mr. Don Bell: I concur with my colleague's comments that passenger safety is obviously the number one concern. We've talked about it on this committee since we started. Whether it's rail, marine, or air safety, it is a major concern.

I appreciate your comments. Certainly the experience seems to be that you have spelled it out. You have spelled out a number of aspects of it. The thing I found intriguing for confirmation is that SMS systems doing the job effectively in other countries still have the regulatory oversight by governmental agencies.

Hon. Virgil P. Moshansky: That's absolutely right. I think the international convention requires each member country to have in place appropriate regulatory oversight.

Mr. Don Bell: Your final recommendation is that you believe we need to have an inquiry under the Inquiries Act to take the current pulse of the air industry.

Hon. Virgil P. Moshansky: I feel very strongly about that. One of the world's leading accident investigators and aviation experts, Dr. W.O. Miller, who was a special expert to my commission at the conclusion of the Dryden inquiry, is, I might mention, the former chairman of the Accident Investigation Bureau of the National Transportation Safety Board of the United States. He's an aeronautical engineer, a university professor, and one of the world's most respected aviation accident investigators and aviation safety consultants. After the conclusion of our commission, he stated to me in writing that from his experience with our inquiry, he felt every nation should test the safety of its aviation system every ten years or so with a major inquiry similar to the Dryden inquiry to check its vital signs.

• (1625)

Mr. Don Bell: It's been 18 years since that happened. You're suggesting it's time.

Hon. Virgil P. Moshansky: Another expert is Professor James Reason of the University of Manchester in England, one of the world's leading aviation psychologists and aviation accident analysts. He is world-renowned. He also supports Dr. Miller's call for a periodic check of a nation's aviation safety system. He has written, and I quote:

Since we can never entirely eliminate accident-causing factors, the only achievable goal is to attain a maximum level of safety fitness and then stay that way. This must be done by making regular checks on the organizational 'vital signs'. Finding a way of doing this effectively should take us beyond the last great frontier in aviation.

The Chair: Monsieur Roy is next.

[Translation]

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia, BQ): Thank you, Mr. Chairman.

Thank you for being with us today, Mr. Moshansky.

I would like to come back to your recommendation that there be a nation-wide investigation in order to determine the problems that exist at present in the aviation sector, particularly with regard to safety. I would first of all like to know why you are making such a recommendation.

I would like to tell you a little story. It is not so long ago that NAV Canada took over air traffic control. In my area, there is a regional airport. It serves as an alternate airport for the Northeast of the United States. Two or three years ago, you could do an instrument landing there. Today, the air carriers are telling us that they can no longer do instrument landings at that airport because they have modernized their equipment whereas NAV Canada has not done so. Planes can therefore no longer do instrument landings at that alternate airport serving the Northeastern region of the United States, the Maritimes, the North as well as airplanes coming from Gander.

I advised the minister of the situation. We have a serious problem. I believe that with regard to safety, this is the type of problem that must be looked at. On top of the issues you have mentioned, there is the safety of the airplanes themselves.

If I understood you correctly, each airport and each air carrier will be equipping itself with a different system. There will therefore be no standard safety management system. If Transport Canada does not

carry out the necessary inspections to ensure consistency amongst all airports and the same type of auditing by all air carriers, then the type of problem I have just told you about will spread.

I would like to know, beyond the implementation of safety management systems, what motivates you today to recommend a nation-wide investigation into the safety of air transportation.

[English]

Hon. Virgil P. Moshansky: What is motivating me is that I have been contacted by many people in the aviation industry—pilots, others—and members of the public who are concerned with the state of aviation safety in Canada, particularly following the exposé that resulted from the “Dangerous Skies” series of articles, which three investigative reporters of the *Toronto Star* and the other newspapers conducted. Some have taken to dismissing these articles, but in my view, if you look at some of the people who were prepared to make statements on the public record as to what was occurring, I don't think it's entirely smart to just dismiss them out of hand.

You have 25,000- and 30,000-hour very senior airline captains who are expressing concerns. It's dangerous to ignore this sort of information that is coming forward. At the very least, the possibility should be considered of maybe calling some of these people who are prepared to talk and getting their views.

Don't take it from me at second hand; call them, and then you can make up your own minds from their evidence.

• (1630)

[Translation]

Mr. Jean-Yves Roy: You have been following the evolution of the air transportation system for years. In your view, what is the main problem at the present time? Is it the insufficient number of inspections on the part of Transport Canada or the fact that we can no longer trust the private sector, and in particular small businesses, that explains why not much is invested in safety? It remains that, for the carrier, it is a risky enterprise. Indeed, if one or two of its aircraft crash, then people will tend to no longer use their services.

I am convinced that, for their part, major carriers will do their utmost to ensure that the safety system works. It is not in their interest to see their airplanes fall to the ground.

You are telling us that the smaller carriers, who face financial difficulties, will neglect safety. In fact, based upon what you are saying, this is already the case. If you are asking for an inquiry, it is because, in your opinion, there is some negligence at the present time, is that not correct?

[English]

Hon. Virgil P. Moshansky: That's a very good question, but I think I've covered that in previous answers to some of the questions.

That particular area of the industry is especially in need of oversight. It seems to me that the situation, as it was exposed at Dryden, indicated that the basic problem was lack of funding of Transport by the government. For example, David Wightman, who was the ADM of aviation at that time, testified that he went before the program control board with a request for funding that they thought was extremely limited for the aviation directorate. That request was cut by 70%. They cut 70% of a request that, for all practical purposes, was a basic minimum of what was required.

What happened was that the aviation oversight program took a nosedive. They lost 400 inspectors. They weren't replaced. They weren't able to do the job at the time of the Dryden crash. As I mentioned earlier in my presentation, only a cursory audit of the F28 implementation program by Air Ontario was conducted, and they never looked into the actual F28 program itself. There were major flaws.

I'll give you an example of cost-cutting by an airline coming into the picture. At the time they acquired the F28, Air Ontario decided to fly it on a route that included Dryden. They thought ground-start equipment was mandatory at the airport. That meant that if the aircraft engines were stopped to de-ice, for example, and if the auxiliary power unit on the aircraft could not restart the engines, they would have ground-start equipment to do it. They budgeted \$25,000 to purchase ground-start equipment for the Dryden Regional Airport. What happened was that they found out it was not a regulatory requirement, so they cancelled the order.

If there had been ground-start equipment at Dryden airport, that crash would not have occurred, because the pilot realized he had wings that were contaminated. His auxiliary power unit was not operating at the time, and had not been operating for about a week. This was one of the maintenance problems with their aircraft. There were many defects in the aircraft, but that was the major one.

If he had shut his engines down, he would not have been able to restart them. That would have had the effect of grounding the aircraft at Dryden and he would have had to answer to Air Ontario management for having done so and run up the expense of putting 70 passengers up in a hotel. So he decided to go without de-icing, because he could not shut the engines down.

What I'm saying is that if they had gone ahead with the purchase of the ground-start equipment—only a mere \$25,000—that crash would not have happened. That's only one example, but I could cite dozens.

• (1635)

The Chair: Mr. Storseth.

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

Mr. Moshansky, thank you very much for coming forward today. You've obviously spent a great deal of time helping to make our aeronautics industry a safer place.

The first question I want to ask you is about the system-wide test that you talked about, the system-wide inquiry to test the aeronautics industry every ten years. Is this an idea that you got from other countries that do this, such as the United Kingdom or Australia?

Hon. Virgil P. Moshansky: No. There are very few countries that do it, but it's a good idea. We did have a safety inquiry in 1982, the Dubbin Commission of Inquiry into Aviation, which was not as extensive as my Dryden inquiry turned out to be. It came up with a number of good recommendations, some of which were implemented, but not all, by Transport at the time. It revealed a number of weaknesses in the aviation system.

When we got into the Dryden inquiry, we decided to do a system-wide investigation, and that took us away from what would have been an easy finding. I could have wrapped up that inquiry in one week by finding it to be pilot error, which was the traditional finding by accident investigators.

The pilot took off with ice on his wings, so that's pilot error. Obviously it is. But the reason behind that error was important. We therefore went into an aviation system-wide inquiry involving not only the pilots or air crew, but the air carrier, air carrier maintenance, all their policies, training policies, and management safety policies. We also looked into the involvement of the regulator, and we found a great many problems throughout.

Mr. Brian Storseth: Actually, that leads right into what I wanted to talk about a little bit, and that was your Dryden inquiry. Because of the essence of time, I'll just ask you if you could explain a couple of the key system-wide causes that you found to be problematic at the time, and those system-wide causes that led Transport Canada to change regulations because of your recommendations.

Hon. Virgil P. Moshansky: One of the big problems we discovered with the regulator was that they were operating under 40-year-old ANOs and air regulations. They still had provisions in there for navigators on board airliners. There hadn't been a navigator in existence for at least thirty years. They were antiquated regulations. It was a real mishmash.

Dubbin, in his inquiry, had recommended that they do something about rewriting the air regulations, but they didn't do it. It was avoided for decades by successive governments, so that was one of the aspects I really pressed. Transport Canada subsequently did a marvellous job in rewriting the old ANOs and air regulations into the new Aeronautics Act and into CARs, the Canadian civil air regulations.

This was done as a result of the way they went about implementing it. You may or may not be aware that they set up twelve working groups under the Dryden implementation project. These working groups had representatives from all the groups within the aviation industry. They worked for three years, dealing with the way they should implement my recommendations. One of the results was the new Aeronautics Act.

Mr. Brian Storseth: In terms of these system-wide changes that occurred because of your recommendations, how many of those changes will be affected or changed in the new legislation, Bill C-6?

Hon. Virgil P. Moshansky: The only ones that I can see offhand are the recommendations with respect to surveillance and monitoring. I made a very strong recommendation that there be effective surveillance and monitoring.

Mr. Brian Storseth: So the system changes that you helped to create to make our system safer won't be affected by this new legislation.

•(1640)

Hon. Virgil P. Moshansky: They'll be affected because you're not going to have the traditional audit program. The way I see it, you're not going to have in-flight monitoring.

Mr. Brian Storseth: So it'll be the surveillance and the auditing—

Hon. Virgil P. Moshansky: Even your pilot proficiency checks have been downloaded onto the carriers themselves.

The Chair: Mr. Volpe.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Thank you, Mr. Chair.

Pardon me for my tardiness, but I had duties in the House. I feel a little bit at a disadvantage, so I'm just going to limit myself to a question or two and apologize to Judge Moshansky.

Part of the disadvantage comes from the fact that we had asked last week for some of the actual dollars and cents that had been allegedly removed from the funds allocated to the inspectorate, which you referred to in your written presentation. The other part is the fact that I wasn't able to share the back-and-forth questioning, so I'm going to ask you this.

Last week, we had Captain Greg Holbrook here, and he essentially took the position—and I hope I'm not misrepresenting it—that if Transport Canada was going to essentially diminish the role of the inspectorate or eliminate it altogether, this bill shouldn't go through. There were those at the table who suggested at the time that his role before the committee was one in which he was supposed to protect the interests, and therefore the jobs, of his own membership and to expand that membership, but that he had really no other thing to contribute. I've heard that from other people who have lobbied me and I guess other members of the committee. Do you share that view?

Hon. Virgil P. Moshansky: No, I certainly don't, because at the time of the Dryden inquiry, the inspectors made a major contribution to the inquiry in identifying the problems that existed within the aviation system.

These people are on the job. They're on the front lines. They know what's going on. Who better to inform on the state of aviation safety than the aviation safety inspectors? It's unimaginable that anyone could downplay their input into this program.

Hon. Joseph Volpe: In your written statement you also indicate a severe amount of skepticism that voluntary compliance with the legislation, and therefore voluntary reporting, would provide the trend line necessary for an appropriate regulatory environment and for a management systems environment. This committee has heard from representatives in the industry and representatives from the regulatory bodies, both collectively and individually, that this is precisely what you have to put in place in order to ensure that the body of information required for an appropriate regulatory environment, i.e. building a new culture of safety, is exactly what's required. Why do you insist on such skepticism?

Hon. Virgil P. Moshansky: Take the marine SMS or IMS that they have. The audit that was done on the BC Ferries, for example, indicated that the effect of confidential or voluntary reporting was negative. People were not prepared to report voluntarily because they were afraid for their jobs and afraid of reprisals by management.

In fact, in the audit report—I have it here somewhere—it indicates that management actually discourages voluntary reporting. That's in the audit. It hasn't worked with BC Ferries, and that's one example that I'm aware of.

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger: Thank you.

I have some suggestions for the committee when we get to other business, Mr. Chairman.

I have two quick questions, Justice.

First, when it was presented to us, this bill was juxtaposed on top of the current regulatory framework. In other words, the existence of safety management systems was in addition to what was already there, and nothing that currently exists in terms of ensuring aviation safety would be removed. After reading and hearing your testimony, I cannot draw any other conclusion than that you don't share that view.

•(1645)

Hon. Virgil P. Moshansky: No, I don't. It has been described as another layer of safety, but what's not being said is that they're removing one layer of safety and substituting this one, in my view.

Hon. Mauril Bélanger: Okay.

For the other one, we won't have the time, but I just want to plant the seed. If you have thoughts on this, it might be helpful if you provide suggestions as to where I can get this information.

Although it's not in the act, it has been suggested that clause 12 would only apply in circumstances or in the designated bodies that are “low-risk”. I've been trying to get a real understanding, a grasp, of what is intended by that.

Are we talking about everybody or those who have a particular safety record and are therefore considered low-risk, or are they just certain types of...? Conversely, what is high-risk, and how does one go from high to low, and the converse?

Although I'm sure the chairman is going to cut me off, your thoughts on that would be very much appreciated, because I think we're in a bit of *une brume* in this case here.

Hon. Virgil P. Moshansky: It seems that the determination on whether a particular carrier is in a low-risk or high-risk situation is best made by a qualified, experienced aviation inspector who will go to the site and examine it and then report back, rather than relying on the carrier, under SMS, to report it to their designated executive and take care of it themselves.

Hon. Mauril Bélanger: In other words, the SM system is not a good determinant of what is high- or low-risk.

Hon. Virgil P. Moshansky: It is in a way, because if it's functioning properly, you have people within the organization who theoretically are prepared to pass this information on without risk of reprisal, etc. I don't see how you're going to do that successfully in the absence of whistle-blower legislation, but theoretically that's what the objective is. You get this information, you accumulate it, you study it, and then you can identify risks.

That's the way they're planning to do it, I believe. Rather than having regulatory oversight on the operations, you're going to have regulatory oversight on the SMS program, in the way it runs.

Hon. Mauril Bélanger: Thank you for your indulgence, Mr. Chairman.

The Chair: Mr. Jean.

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

Our understanding—and I want to repeat it, although I know it has been said a lot—is that the regulations that currently exist are going to continue. In fact, they are going to be more or less a bottom level of regulations that everybody in the transportation industry has to comply with. My understanding is that they have actually been somewhat increased by this legislation over and above what was there a couple of years ago and that SMS will actually be a system over and above that, which will increase the safety management and give a culture of safety to the airline industry. Is that your understanding as well?

Hon. Virgil P. Moshansky: My understanding is that the regulations will continue to exist. However, the question is who is going to enforce them.

Mr. Brian Jean: Okay.

In your paper and your presentation you stated that you think the concept of a safety management system could be very good.

Hon. Virgil P. Moshansky: Oh, it's a wonderful system if you get it working properly, but with oversight.

Mr. Brian Jean: Absolutely.

My first question is whether in your opinion the incident at Dryden would have happened if a good safety management system had been in place at that time with the same regulatory oversight that exists today.

Hon. Virgil P. Moshansky: Absolutely.

Mr. Brian Jean: The incident would have still taken place?

Hon. Virgil P. Moshansky: No, no. I thought you meant it wouldn't have taken place. In my opinion, if you had that in place it would not have occurred.

Mr. Brian Jean: So if we had had the safety management system we're proposing today plus the existing regulatory oversight, the incident at Dryden would not have taken place.

Hon. Virgil P. Moshansky: It's very unlikely that it would have.

Mr. Brian Jean: Okay. My next question is how an inspector would have stopped the accident at Dryden.

Hon. Virgil P. Moshansky: Well, if they had done an audit they could have found a myriad of failures within the Air Ontario organization—their operations, their maintenance, pilot training, you name it. It was an accident waiting to happen.

• (1650)

Mr. Brian Jean: Okay, but the particular accident itself was a de-icing problem. They didn't de-ice and as a result the accident took place. In essence what you're saying is that at the time the airline itself should have been identified as having some concerns, the

safety management system would have shown those concerns, and something would have been done by Transport Canada.

Hon. Virgil P. Moshansky: I don't know. The safety management system would have disclosed the concerns, but if you had regulatory oversight, you certainly would have found out those concerns when they did a proper audit of the operation.

Mr. Brian Jean: Do you have any information that they're going to eliminate the regulatory oversight?

Hon. Virgil P. Moshansky: They've already cancelled the national audit program, which is a major part of the oversight program.

Mr. Brian Jean: Would you suggest that if we had a declaration in Bill C-6 that Transport Canada continue with its regulatory oversight it would be sufficient?

Hon. Virgil P. Moshansky: I think it would be very good.

Mr. Brian Jean: Thank you, sir.

Hon. Virgil P. Moshansky: In fact, I think it would comply with the international standards.

Mr. Brian Jean: And indeed it would eliminate all the anticipated problems we have heard from the other groups as well.

Hon. Virgil P. Moshansky: Hopefully.

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

The Chair: With the time limitations we have, I think I'm going to allow one more question from each party.

Mr. Volpe.

Hon. Joseph Volpe: I want to follow up on the question by the parliamentary secretary, which, if I heard correctly, was that if there is a statement that says we're not going to eliminate the regulatory oversight, it would be sufficient for you.

I am just wondering about the quickness with which you answered that question. I'm not sure what the parliamentary secretary had in mind, but he probably had in mind that this statement would bind the government to the fiscal allocations required to ensure that the regulatory oversight be appropriately financed in order to be effective. Is that what you understood as well?

Hon. Virgil P. Moshansky: I would hope that would be the result.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much. I apologize for not having been here for the beginning of your statement.

Mr. Gage, from the Canadian Business Aviation Association, appeared before our committee last week. His association is probably one of the first designated organizations. Even the industry appears to be recognizing that, pursuant to clause 12. This clause creates a problem for me, and the same goes for you.

Mr. Gage told us that his business supervises the safety management systems of approximately 140 companies that are not airlines. It has the authority to certify a part of the operations.

I asked Mr. Gage if Transport Canada had inspected his business. He answered that the department had carried out an inspection and that there would be a second one. His company has been in business since 2003 and this second inspection will take place in 2007. In fact, it is my impression that it is his appearance before the committee that is behind this second inspection.

Do you find that to be reasonable? Is that really, with C-6, the situation that Transport Canada is proposing, a situation that will come to pass if we do not see to things right away?

[English]

Hon. Virgil P. Moshansky: Well, it seems to me there's going to be a period of—what was it?—four years between inspections. When you implement a new regime such as this, I would think in the early stages there should be more frequent inspections of the operation.

[Translation]

Mr. Mario Laframboise: With regard to these famous designated organizations, for example the Canadian Business Aviation Association, I am in favour of your recommendation that clause 12 be removed. I believe that each and every air transport company should be directly supervised by Transport Canada and not by an intermediary. These companies could bring about problems for civil aviation.

Do you believe that clause 12 should be abolished?

•(1655)

[English]

Hon. Virgil P. Moshansky: No, I don't think clause 12 should be abolished. As I stated earlier, I think SMS is a good thing, but it must be accompanied by a parallel system of regulatory oversight. This has to be there in order to comply with international law, to which Canada is a subscriber.

The ICAO standard requires operational oversight. So does the European Union—25 countries. They all require operational oversight of SMS. So how does Canada expect to lead the world by going it alone? I don't know.

The Chair: Mr. Julian.

Mr. Peter Julian: Your comments today, Justice Moshansky, have been very much a wake-up call. As you mentioned, in 1989 there were prophetic warnings going to Transport Canada at that time. They weren't heeded, and we had the result of the tragedy of Dryden.

We have similar prophetic warnings coming forth now. So just to finalize, I have some quick questions. I'll give all of them to you.

What should the government be doing in reaction to these prophetic warnings that we're hearing from the aviation inspectors, as you said yourself, the folks who know aviation safety best?

Secondly, around the issue of whistle-blowing, there is no protection for employees, but within the legislation there is what some people have termed a “get out of jail free” card for CEOs. Does that detract from safety, where the employees have to worry about their jobs when the CEOs can basically get off scot-free?

And my final question: Have we just been lucky that a major accident has not occurred, despite the cutbacks we've been seeing over the past year?

Hon. Virgil P. Moshansky: Your last point is interesting. I was reviewing the 2005-06 Transportation Safety Board annual report to Parliament on occurrences, investigations, and safety action. It indicates that the number of accidents in 2005 increased by 5% from both the 1,945 accidents reported in 2004, and the 2002-2004 annual average of 1,946 accidents. So we had an increase by 5% in 2005 from what the situation was in 2001, in both the numbers and the average in those years.

The other report I found of interest was the TSB report for December 2006 on aviation occurrence and casualty statistics. It indicates there were seven airliner accidents in Canada in 2006. There was a total of 262 accidents for Canadian-registered aircraft, of which 31 were fatal.

It is really interesting that there was a total of 823 all-aircraft reportable incidents. This is a figure you don't hear too many people talking about. In my view, an incident can be a more important indicator of the state of safety in the aviation system than an actual accident. We've had almost three incidents per day. These have involved such things as near-misses, separation between aircraft, and risk of collision. There were 280 declared emergencies, 136 engine failures, 171 loss of separation, 103 smoke-fire incidents, and over 150 other incidents.

So I think that's a very important area that is usually neglected when you talk about the state of aviation safety.

•(1700)

The Chair: Mr. Jean.

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

Again I want to thank you so much for your time here today.

I'm not sure if you're aware of or have had a chance to look at some of the investments that have taken place in the last eight or nine months, particularly in security. Obviously this new Conservative government has seen some of the issues. For instance, since the ministerial order that was issued at the beginning of last summer, rail accidents have gone down by 25% in 2006 compared to 2005.

I wonder if you have seen some of the investments this government has made. There's been \$95 million in rail and urban transit security, \$26 million in air cargo security, \$303 million in border security strategies, \$930 million in marine security, \$101 million in border guard security, and another \$133 million over two years to CATSA.

Not to throw money at an issue, but do you think this government is going in the right direction to deal with issues like that, with ministerial orders and money in particular areas of high need, such as the airlines...and CN accidents over rail? Do you think that's the right step to take?

Another one is the Railway Safety Act review, to which this government has just appointed a board. Do you think that's the right step to take to go forward from here?

Hon. Virgil P. Moshansky: I don't see how it could hurt. As a matter of fact, I appeared before the railway review commission at their invitation after I was done with Dryden. On three separate occasions they wanted some advice, and I was very glad to accommodate them. Anything that has to do with improving the state of safety in any of the transport mediums has to be a good thing.

Mr. Brian Jean: It's quite remarkable that the number of accidents has gone down by 25% in rail, for instance, in just a year or two.

Hon. Virgil P. Moshansky: You had the big one in Wabamun.

Mr. Brian Jean: We sure did, sir, in my home province of Alberta. It was not at all attractive to any of us.

Hon. Virgil P. Moshansky: There was a bad one in B.C. recently.

Mr. Brian Jean: It is contained, and even the chemicals are in a ditch and contained. We had a report this morning. It happened four kilometres from Kicking Horse Pass.

Hon. Virgil P. Moshansky: That's part of the security effort.

Mr. Brian Jean: Yes, sir.

Thanks for your time.

The Chair: Thank you very much, Mr. Moshansky. Your information has been great. I hope that some of the things you'll see come out of this committee will reflect the comments you've made today.

Hon. Virgil P. Moshansky: Thank you very much for listening.

The Chair: I appreciate your accommodating the committee.

Hon. Virgil P. Moshansky: It was a pleasure.

The Chair: We're going to suspend briefly and then come back with committee business.

•(1700) _____ (Pause) _____

•(1705)

The Chair: Welcome back.

Before we get to Monsieur Laframboise, I want to advise the committee that the statistics requested from Transport Canada should be in your offices by the time you get there. That is being done by paper.

The other questions on the SMS and the overlay on the two regimes should be in your offices electronically. If they're not, please let Mark know.

Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Mr. Chairman, the purpose of my motion is simply to ask Mr. Preuss to come and explain himself before the committee.

The Canadian Federal Pilots Association made important revelations according to which pressures were exerted upon it in order for it to not appear before the committee.

This deserves to be discussed with him. It is intolerable that representatives or employees or anyone else for that matter be pressured to not appear before the committee.

I would like to know the score. This is why I would like us to find the time to meet with Mr. Preuss.

[English]

The Chair: Mr. Julian.

[Translation]

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

I find the motion to be most appropriate, given what we heard last week. It is important for our committee that we ask Mr. Preuss to come and give us an explanation.

•(1710)

[English]

The Chair: Mr. Jean.

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

I agree with the other member's comments. Any time we hear third-party information that slurs someone's character, it is best to have that person here to defend their own interest and hear it firsthand.

The Chair: The motion has been put.

(Motion agreed to)

The Chair: Monsieur Bélanger.

Hon. Mauril Bélanger: There are a couple of things. First, I want to thank the staff for the documentation we have received on the regulatory and legal underpinnings of the current system. I appreciate that. I was going to mention that we're still waiting for the Transport Canada stuff, both the road map of the amendments and the numbers. If the numbers are there, that's fine; then we're just missing a road map.

Second, Mr. Chairman, I believe we had the International Civil Aviation Organization on our list of potential witnesses. According to our witness today, we're not carrying out audits as frequently as expected under the aviation safety international standards. We heard previously the same thing about the frequency of verification of pilot proficiency. I'm wondering if indeed it would be appropriate for us to invite representatives of the International Civil Aviation Organization to appear before us—or perhaps insist that they do—at some point before we conclude our hearings on Bill C-6.

The Chair: Are there any comments?

I don't think it's a bad idea, particularly given Mr. Moshansky's comments. If we're trying to adopt and adjust to those regulations, and he doesn't believe we are, we should obviously ask that question.

Mr. Jean.

Mr. Brian Jean: It might be appropriate, especially given that it seems to be that a lot of major industrialized countries are moving towards SMS, and it might even be good to hear their opinion on that as well.

The Chair: Would it be reasonable if I were to bring him in as part of a collection of witnesses, as opposed to just as a single meeting?

Mr. Brian Jean: Absolutely.

Hon. Joseph Volpe: What do you mean by that?

The Chair: I mean as we have been doing, having two or three witnesses to present, and then having the committee question each witness, as opposed to having it be a stand-alone, two-hour meeting.

Hon. Mauril Bélanger: We'll leave that to your...

The Chair: You're comfortable with that?

Hon. Mauril Bélanger: I would be.

The Chair: Mr. Julian.

Hon. Mauril Bélanger: Mr. Chairman, I was....

The Chair: I'm sorry.

Hon. Mauril Bélanger: I have one more point.

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger: Would it be appropriate for the committee to look at the main estimates that have been tabled in terms of the resources to be allocated to the directorate that concerns us here, or at the entire estimates overall? At some point I presume this committee will want to address them, but within the matter of studying this bill, my sense is that we should have a clear understanding of the estimates and the priorities the department puts out as well. I just wanted to flag that, because I think it might be important for us to know the direction the government intends to take.

Thank you.

The Chair: Are there any comments?

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: To be precise, we should probably have the minister appear in order to defend his estimates. We could question him on this, among other things. However, if he were to come to talk solely about that... I would like to hear the minister and, if he is going to be here, then we might as well discuss all of the supplementary estimates.

[*English*]

The Chair: Mr. Jean.

Everything is okay?

What I might suggest is that we ask the people at the table here to separate that information provided to the members as an information piece, and then we can decide when we come back from the break. As Mr. Laframboise has said, we probably would request that the minister be here.

Mr. Bell.

Mr. Don Bell: Thank you.

When we come back from the break, are we going to be picking up on having the witnesses on the rail derailment inquiry?

The Chair: I don't have the agenda in front of me, but I'll give you the dates. Maybe while Mark is doing that....

Mr. Julian, did you have a comment?

Mr. Peter Julian: You can answer Mr. Bell.

The Chair: That's what you're waiting for? Okay.

Mr. Peter Julian: No. I have other points, but I'll wait until you're finished with Mr. Bell.

The Chair: On the 21st, when we come back, we will continue with Bill C-6. We have confirmed Canada Post for the 26th. We actually lose the 19th because of the budget, just for information sake. On the 28th we will be dealing with the Tassé report. Now we have today's motion, which is suggesting that we want to get this in before the end of March. That would either have to be.... Do we have enough days? That would be a Wednesday—I guess the 28th. It would involve moving the Tassé report back into the next month to accommodate Mr. Laframboise's motion today. Is that agreeable?

• (1715)

Mr. Don Bell: And when would we go to the rail witnesses, you're suggesting?

The Chair: I think we had decided that we would wait a little bit for your attendance, just to....

Mr. Don Bell: Yes, I appreciate that.

The Chair: We perhaps would have a subcommittee meeting within the first week of returning after the break, when we could set those appointments.

Mr. Don Bell: Okay. I'd like to be able to give adequate notice to the witnesses to attend.

In terms of the process, before we have Transport Canada and the carriers here, we should hear from workers, hear from witnesses other than Transport Canada and the railways. That way, when we have the railways and Transport Canada come in, we're in a position to ask questions based on the testimony we've had and we don't have to then call them back.

The Chair: Good point.

Mr. Julian.

Mr. Peter Julian: Thanks, Mr. Chair.

I wanted to come back to the issue of Bill C-6 witnesses. Mr. Holbrook presented a lot of material, and we had some real concerns that he come back before us. Justice Moshansky said very clearly that we should be hearing from the inspectors themselves. But those are two issues that I guess we'll deal with at the agenda committee.

The other issue is the motion that I brought forward for the national Marine Advisory Council. I just want to serve notice that I'll be bringing that up, now that Mr. Bell is back, on the 21st. So if we could reserve some time at that first meeting back to discuss that motion, I'd appreciate it.

The Chair: You're basically giving us notice of your motion to be on the table that day.

Mr. Peter Julian: Plenty of notice.

The Chair: Plenty of notice, yes.

Any other comments?

Mr. Jean.

Mr. Brian Jean: Mr. Chair, I want to make it known again—I thought everybody knew—that Mr. Preuss is here today. He is prepared to answer any questions. Bells are going to happen in 15 minutes, but anybody could take the opportunity right now to ask questions.

We could always bring him back in the future as well to satisfy those who are curious and want to deal with it.

The Chair: I'm sensing that there's not a need for that meeting today. We will move forward with Mr. Laframboise's motion.

Monsieur Bélanger.

Hon. Mauril Bélanger: This is just a thought, Mr. Chair, so you can dispose of it as you see fit.

If I follow you correctly, when we're back we have three meetings, not four. Two of those are not dealing with Bill C-6. Would it be something to consider that the first one, the meeting on March 21, not be Bill C-6 as well, so that we can dispose of other business if you...and then bunch them in April?

It just seems that we're being a bit disjointed here. Now, if we have to be, then let's be.... Let's try to bunch these six in April and dispose of it.

But that's just a thought. As I say, you can deal with it as you see fit.

The Chair: Thank you very much. I'll take it under consideration.

Are there any other comments?

Mr. Volpe.

Hon. Joseph Volpe: While you're considering that, I wonder if you would consider giving all members of the committee an opportunity to review some of the presentations by witnesses 24 hours before, maybe, rather than the day of. If we could suggest to them that they submit prior to, please, so that we can distribute, it would make it a lot easier for members to have a prepared approach to a committee.

The Chair: Whenever we invite someone, we ask them to forward it. Then it kind of becomes their choice. But I'll reinforce that position.

Mr. Jean.

• (1720)

Mr. Brian Jean: Mr. Chair, I do have a bit of a concern here, and I'm going to move a motion, on current business, that we listen to Mr. Preuss and ask any questions we have of him at this stage. He wants to clear his name. Some allegations have been made, and he has come forward at the first opportunity and has made it known that he wants to deal with it. I think that speaks to the man's character.

So I would move that motion.

The Chair: Mr. Julian.

[*Translation*]

Mr. Peter Julian: Mr. Laframboise is ahead of me.

Mr. Mario Laframboise: Out of respect towards him, but also because each one of us must have the opportunity to ask his or her questions in the time allotted. If I take up seven minutes and if the

Liberals use seven minutes, then we will not be able to finish this round by 5:30 p.m.

Mr. Chairman, we must take the time required to get to the bottom of things.

[*English*]

The Chair: Can I ask the committee...? I know we've already made this motion...maybe we'll deal with this motion first.

Mr. Julian.

[*Translation*]

Mr. Peter Julian: Mr. Chairman, for the very same reasons Mr. Laframboise has given, to put this in place hastily, when we only have nine minutes left before the end of the meeting, is not serious.

We have just carried a serious motion. We need some time to sort things out. I find this motion to be inappropriate.

[*English*]

Hon. Mauril Bélanger: For the very reason that Mr. Jean brings up, this senior civil servant has a right to have his side of the story heard by us. I will remind the committee that I made a point of getting on the record at the last meeting that I thought it behooved us to do so. I don't believe that 10 minutes will do this matter justice. I think it's important to have precision when we do that. I don't have with me the exact comments and the allegations that were made. I think this motion is premature and it should not be carried by this committee.

Hon. Joseph Volpe: I can only reiterate my colleague's perception of this. Last week I was most anxious to have Mr. Preuss here. I didn't take anything that was said as an attack on his character, and I would encourage all members to take a similar disposition until we have an opportunity to hear him. But certainly there was an allegation of a statement attributed to him by a third party.

As Mr. Bélanger suggests—very strongly, I might add—the last couple of minutes left in this committee hearing wouldn't be enough to give Mr. Preuss an opportunity to address the allegations properly.

Had we known at the very beginning that he was going to be here we might have made a different type of an arrangement. But in order for us to deal with this right now would be the height of irresponsibility. It would be an injustice to him or in fact to anybody else who finds themselves in that position.

The Chair: Mr. Jean.

Mr. Brian Jean: After 15 minutes of talking...we would have been done by now, Mr. Chair. We can promise on this side that we'll have no questions from the government for Mr. Preuss.

But certainly there's a motion on the floor and we'd like to vote on it.

The Chair: There's a motion on the floor that we allow Mr. Preuss to present now.

An hon. member: Can we have a recorded vote? I'd like to record the time the vote was taken as well.

The Clerk of the Committee: It's 5:25, Wednesday, February 28.

The Chair: On the motion.

(Motion negatived: yeas 4; nays 6)

The Chair: Mr. Jean.

• (1725)

Mr. Brian Jean: I have one more comment, Mr. Chair. I'm not trying to waste the committee's time, but certainly on this side of the table we're prepared to meet after the votes, which are 15 minutes from now, and I would amend the motion accordingly, if that's the will of the committee.

An hon. member: Perhaps tomorrow morning, Mr. Chair. Tomorrow morning would be fine.

An hon. member: I have commitments.

The Chair: I appreciate the comments.

I do want to ask the committee before we leave whether we need a full two-hour meeting with Mr. Preuss.

One hour is fine, Mr. Laframboise?

Okay. With that, have a nice break.

The committee is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.