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Chair

Mr. Merv Tweed

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Standing Committee on Transport, Infrastructure and Communities

Wednesday, March 28, 2007

• (1530)

[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.

This is meeting number 42, 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 from the Department of Transport we have Mr. Merlin Preuss, director general of civil aviation. Thank you, Mr. Preuss, for being here today. Welcome.

As a person who has attended many of these meetings, you're welcome to make opening remarks of seven minutes. Then we'll go to rounds by the committee members.

Welcome, and please proceed.

Mr. Merlin Preuss (Director General, Civil Aviation, Department of Transport): Thank you very much, Mr. Chair. Yes, it is indeed my pleasure to be here.

I will not burden you with a seven-minute speech but just respond directly to what I've heard are the issues before us.

I would like to thank the committee for giving me the opportunity to respond to allegations that I may have pressured inspectors, members of the Canadian Federal Pilots Association, to not appear before this committee. I'd like to begin by referring that at no time did I threaten inspectors or apply pressure to prevent them from testifying before this committee.

At meeting 35, a member of this committee indicated that he expected inspectors to appear here. It is my experience, which spans nearly 40 years of federal service, that inspectors rarely appear at parliamentary committees.

I anticipated that individuals and managers involved would have questions regarding these appearances since they have not been exposed to this process. I considered it my duty as a manager to ensure that if inspector witnesses were called, they and their managers were aware of their roles, rights, and responsibilities. That is why I decided to follow up with Mr. Holbrook.

I did call his office, but I was not able to speak with Mr. Holbrook and he did not return my call. I do not understand why Mr. Holbrook didn't follow up with me or my superiors if he had concerns about my request.

My sole purpose in making the call was to find out whether Mr. Holbrook intended to have civil aviation inspectors appearing with him, so that I might ensure that everyone involved knew of their roles, rights, and responsibilities.

At no time during this brief phone conversation with Mr. Holbrook's assistant did I make any threats regarding the appearance of inspectors before this committee. In fact, I've been working hard to create an environment both in the industry and in Transport Canada's civil aviation in which people know they can report issues and incidents without fear of retribution.

The safety management system regulations demand the creation of this reporting culture, and the disciplinary policy I have written into our civil aviation issues reporting system clearly demands the creation and maintenance of a non-threatening, blame-free reporting culture.

Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Preuss.

Mr. Volpe.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Thank you very much.

Thank you, Mr. Preuss, for coming before us to clarify the matter that was raised a few weeks ago.

I have before me, as I think other members might have—I know that the chairman does—a covering page with an affidavit by Kathy Marquis, whom I think you know. Am I right? Kathy Marquis.

Mr. Merlin Preuss: Kathy Marquis?

Hon. Joseph Volpe: The executive assistant to the Canadian Federal Pilots Association and its chair.

Mr. Merlin Preuss: I don't know her personally, but that sounds like the name of Mr. Holbrook's assistant. I can't confirm it.

Hon. Joseph Volpe: Okay. She says she knows you because of work in the past.

Mr. Merlin Preuss: Yes, she would have been at some meetings.

• (1535)

Mr. Ed Fast (Abbotsford, CPC): Mr. Chair, I have a point of order. Has this affidavit been formally tabled with this committee?

The Chair: It came to my office about 10 minutes ago, but I see that it has been cc'd to all members.

Mr. Ed Fast: It should probably be formally tabled.

Hon. Joseph Volpe: We'll get a copy to everybody. It's not a problem. I mean, it's not a secret document. I'm just trying to pursue something.

The Chair: I am asking the clerk to provide Mr. Preuss with a copy.

Hon. Joseph Volpe: Mr. Preuss has a copy.

The Chair: And we are sending him one right now.

Hon. Joseph Volpe: So there you go. Relax, Mr. Fast.

The Chair: It's not a point of order, but it's a good point, Mr. Fast. Mr. Preuss will have the document that Mr. Volpe is referring to.

I stopped the clock. Your time will begin now.

Hon. Joseph Volpe: You're a good man. You'll be rewarded in heaven, I know.

Mr. Ed Fast: Don't bet on it.

Hon. Joseph Volpe: Now we're dealing with this place.

Let's just say that you accept that you probably know this individual. Okay?

Mr. Merlin Preuss: Yes.

Hon. Joseph Volpe: Thanks.

I won't read the whole thing, but apparently part of the affidavit says—and I'll read it, it quotes you: "Tell him that if he plans to have any Transport Canada employees with him"—before this committee—"I will have an issue with it. Did you receive my e-mail with my new cell phone number?" And so on. And: "Have Greg call me back on my cell phone. Fine."

What did you mean when you said, "I will have an issue with it?"

Mr. Merlin Preuss: I think in my opening remarks I indicated what my concerns were. This is a new area for the inspectors and my managers, and I was trying to make sure that our folks were well aware of what their obligations were to this committee.

I was anticipating briefing them on what the requirements were from the Government of Canada's perspective. I was anticipating briefing the managers who were involved. And as it turned out, since Mr. Holbrook indicated that he would be appearing alone, I let the matter drop and was frankly quite surprised to hear it reappear here.

Hon. Joseph Volpe: If you were to say, listen, I'll have an issue with a Transport official appearing with you, the impression is that you would like to structure whatever information is coming forward from Transport officials. Is that a fair assessment of the perception?

Mr. Merlin Preuss: I have no idea what other people perceive what I say to mean. This was frankly an administrative action on my part. I had no other intention.

Being somewhat experienced with how it works around here and the consternation in the minds of people who are thrust into committee settings like this, I was quite concerned about my employees, frankly. It had nothing to do with what they say. And it would be totally against what I'm trying to do here in terms of an open society.

Hon. Joseph Volpe: The initial impression, I think, that this committee was allowed to infer—and I hesitate to say encouraged to infer, but it certainly came from the implication of the language used

—is that the words that you would "have an issue with it" are rather menacing language for those who are associated with communicating impartial information to this committee.

Mr. Merlin Preuss: Again, I can't speak for other people's impressions. I can only speak to what my intentions in that wording were, in fact that is the wording I used. As I said, to me it was an administrative conversation. I frankly don't even remember the day it happened. I know the period of time it happened in, but it wasn't something that—

Hon. Joseph Volpe: But do you remember actually saying that?

Mr. Merlin Preuss: No, I don't remember, because as I said, it's quite a few weeks in the past, and it was an administrative question. I was not anticipating that my words would appear before a committee such as this one.

Hon. Joseph Volpe: So you would be surprised—is that what I should draw from that, that you would be surprised—that you would have used language like that?

Mr. Merlin Preuss: No, I didn't say that. What I say is that I don't recall what language I used. I don't recall being in any way concerned with the telephone call. It was administrative in nature, simply trying to ascertain what the situation was going to be with the association.

I knew full well that if the committee here were talking to or asking individuals to appear, I'd be notified through another process. In this particular—

Hon. Joseph Volpe: But Mr. Holbrook is not an employee of Transport Canada.

Mr. Merlin Preuss: No, he's not. He's the head of the bargaining unit for the pilot inspectors in civil aviation and elsewhere.

Hon. Joseph Volpe: Why would he even think to appear and to have any Transport Canada employees appear with him?

Mr. Merlin Preuss: I have no idea. And again, I wasn't told, nor did I assume that this was the only source of requests for appearances before this committee.

Hon. Joseph Volpe: But the normal procedure for any Transport officials, who are employees, to appear before a committee would be to clear through the vertical chain of command in your department, wouldn't it be?

Mr. Merlin Preuss: I'm not sure; that's a committee question. I think what happens is that you make an invitation as a committee, but as to the process, I'm not aware of the details.

• (1540)

Hon. Joseph Volpe: No, but you have a parliamentary directorate that indicates who should appear before the committee, to ensure that you have individuals with the appropriate information for distribution.

Mr. Merlin Preuss: Oh yes, but rarely, if ever, does that reach down into the working levels of the organization. It's people of my responsibility area who appear before this committee. Rarely is it inspectors. As soon as I heard the word "inspectors" here, I said, that's a little interesting.

And of course the context is that this is after there have been reports of surveys presented to this committee, so I'd—

Hon. Joseph Volpe: But are members of that inspectorate part of the Transport Canada human resources structure? In other words, are they employees of Transport Canada?

Mr. Merlin Preuss: Who's this, again?

Hon. Joseph Volpe: The members of the inspectorate that Captain Holbrook has with him; do they work for Transport Canada?

Mr. Merlin Preuss: Do you mean the people in his office?

Hon. Joseph Volpe: Right.

Mr. Merlin Preuss: I think the support he gathers from the membership is, in a lot of cases, that of Transport Canada employees. The board that directs his actions is made up of Transport Canada employees, yes.

Hon. Joseph Volpe: Is it correct to say that a question like the one you would have posed would actually have referred to any employees who perform inspecting functions?

Mr. Merlin Preuss: The only people he would know about or be qualified to respond about would be pilot inspectors, because those are the members of his association.

The Chair: Go ahead, Monsieur Laframboise.

Mr. Merlin Preuss: I was directly referring to pilot inspectors appearing, to his knowledge, with him or without him; it was never a question of solely just appearing with him.

The Chair: Monsieur Laframboise, go ahead.

[Translation]

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

Mr. Preuss, you seem to favour an interventionist approach when it comes to witnesses appearing before various government bodies. This is not the first time that you have contacted potential witnesses. You did so in July 2006 when you forwarded a letter to Ms. Sachs from CUPE. In the letter, you asked to discuss certain matters with her prior to her appearance before the Standing Committee on Transport.

This morning's newspapers report that you sent a note to various public servants who might be questioned by the Auditor General. You asked that you be sent the requests to confirm their validity, information and so forth.

You seem to find nothing unusual in the fact that when committees or the Auditor General ask to hear from public servant, you meet with them in advance to find out what they are going to say.

Is this the normal way of doing things, Mr. Preuss?

[English]

Mr. Merlin Preuss: The particular question vis-à-vis CUPE would apply to ALPA and to ACPA. It was an offer on my part to provide a service to them if they had any questions. Of course, I'd be more than happy if they shared with me what their concerns were and what they might present before this committee, but it was in no way an attempt to, as you say, intervene in some sort of controlling fashion.

I see my job very much as providing as much information as I can to anybody who chooses to avail themselves of the information I can provide in terms of background, context, and what our intentions are when the department writes things like amendments to acts. To me, it's simply a manifestation of my desire to create partnerships and work with the industry in general and, of course, with our own bargaining agents and unions.

[Translation]

Mr. Mario Laframboise: Except for the fact that Ms. Marquis, in a sworn affidavit submitted to us—I believe you've received a copy of it—, said she was convinced that in light of the words and tone used, you were attempting to discourage representatives of federal pilots from testifying before the committee. You don't deny the fact that you either spoke to, or called...

Therefore, the words used might suggest to some people that you wanted to pressure them in some way. You don't deny that you contacted these people to let them know that that they were being called to testify before the committee. You did just that in the case of the federal pilots. Therefore, it's not beyond the realm of possibility that these individuals might think you're trying to discourage them from testifying before the committee. Quite possibly they might think that.

● (1545)

[English]

Mr. Merlin Preuss: Mr. Chairman, could I have a minute to read this letter? I'm not aware that this letter actually says that the woman in question perceived that I was threatening. Could I take a moment to see, or perhaps Mr. Laframboise can read to me exactly what—

The Chair: I would ask you to take a minute and read it. We'll stop the clock and take a two-minute recess.

● (1545)

_____ (Pause) _____

● (1545)

The Chair: We're back.

Mr. Merlin Preuss: Thank you, Mr. Chairman. I now know what phrase Monsieur Laframboise was referring to.

All I can say then in response to what Madame Marquis has stated is that it wasn't my intention to discourage; it was my intention to anticipate any problems that might arise through the invitation for inspectors to appear before this committee. If I left that impression with Madame Marquis, that was certainly not my intention.

[Translation]

Mr. Mario Laframboise: But it's not impossible, since you do make these phone calls or send letters, that these individuals might think you're trying to discourage them from testifying. It's not impossible.

Do you agree with me?

[English]

Mr. Merlin Preuss: I suggest that if people had that impression or inferred something pejorative from something I've written or said, then perhaps a phone call back to me, or an e-mail back to me, to clarify would have solved the problem right there. In this particular case, also in the case of Pamela Sachs, I heard nothing negative back from anybody on my requests or my offers of assistance, so I'm a little puzzled as to how someone could leave such negative impressions sitting idly.

[Translation]

Mr. Mario Laframboise: Except that you're in a position of authority. Do you acknowledge that that's the case?

[English]

Mr. Merlin Preuss: Monsieur Laframboise, I have no authority over the bargaining agent. I have no authority over Madame Marquis or Mademoiselle Marquis. I have no authority over Mr. Holbrook.

[Translation]

Mr. Mario Laframboise: However, at Transport Canada, you hold a position of authority in the organization. You do represent Transport Canada. Correct?

[English]

Mr. Merlin Preuss: I have a responsibility to manage the resources entrusted to me. I have a responsibility to follow the Government of Canada policies. I guess I have authority there. No, I know I have authority in those areas to act on behalf of the Government of Canada, but in terms of dealing with Pamela Sachs and CUPE, and dealing with the bargaining agent, I have no authority.

• (1550)

[Translation]

Mr. Mario Laframboise: Mr. Preuss, given your position as a senior official, do you realize that pressuring witnesses to not testify or asking to speak with them prior to testifying could be viewed as contempt of Parliament? Are you mindful of this fact when you intervene?

[English]

Mr. Merlin Preuss: I'm not a legal expert in terms of what position people might take about things that I do on behalf of the Government of Canada in exercising my duties and responsibilities. I'm not an expert on that. But if you're implying somehow that I had any intentions of being in contempt of this committee or Parliament, that couldn't be further from the truth.

The Chair: Mr. Julian.

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

I'm quite disturbed by some of these answers, but I'll come back for a moment, Mr. Preuss, to the issue that's arisen through our Bill C-6 hearings, which is the cancellation of the national audit program in March 2006. Did you, Transport Canada, conduct a risk assessment prior to the cancellation of the national audit program?

Mr. Merlin Preuss: Mr. Julian, I think that's a very important question, and to it, and to the many other questions and concerns that have been raised at this committee, I will be more than happy to

provide you a complete answer in context. But I'm frankly not prepared today to discuss issues surrounding Bill C-6. My understanding is that I was here to respond to the allegations.

Mr. Peter Julian: No, it's a very simple question. Did you conduct a risk assessment?

Mr. Merlin Preuss: I understand what your question is, Mr. Julian, but I'm not—

The Chair: I think that we do have to stay to the context of the motion, and the motion deals with—

Mr. Peter Julian: Mr. Chair, it's very simple. Did you conduct a risk assessment, yes or no? I'm not asking him for the details on that.

The Chair: Unfortunately that question will be answered when Mr. Preuss returns to this committee as part of the Transport Canada...this is dealing directly with the motion of Mr. Laframboise. I'm sorry, Mr. Julian. You will have to stay on topic.

Mr. Peter Julian: Mr. Chair, the witness said his job is to provide information. He stated that in his remarks. I am not asking any details, I'm simply asking yes or no. He's aware of that. It's part of his job.

Is there a risk assessment—

Mr. Ed Fast: I have a point of order, Mr. Chair.

The Chair: Mr. Fast, on a point of order.

Mr. Ed Fast: Mr. Julian is badgering the witness.

Mr. Peter Julian: I'm not.

Mr. Ed Fast: You've already ruled on the issue, Mr. Chair. Could we move on?

The Chair: Mr. Julian, you will have the opportunity to ask Mr. Preuss that question when he attends on behalf of Transport Canada. He is here today to answer questions in regard to an allegation that was made at this table. He is answering the questions, and we have to stay on that topic.

I'm sorry, but that's my position.

Mr. Peter Julian: Then through you, Mr. Chair, I will ask Mr. Preuss to table the risk assessment as a formal request of this committee.

You don't need to answer that question, but you have been requested to table that risk assessment. It is this committee's right to know what is in that risk assessment.

It is also this committee's right to convene witnesses, and as a member of this committee, I actually requested that the Canadian Union of Public Employees appear before this committee. On June 20 they did so. On June 20 they came forward and offered very professional testimony, as a result of which the government backed away from what I thought was a very wrong-headed plan to cut the ratio of flight attendants on Canadian airlines. Obviously the government agreed with the testimony provided by CUPE.

What I disagree with is your characterization that your letter to Pamela Sachs was an offer to provide services. It reads, in part, as follows: "I have also directed my officials that future communication between Transport Canada and your organization on this and any other civil aviation issue is to be conducted through my office until such a time as the relationship with your organization is re-established on a professional footing." Now, they were professional on June 20; there's no doubt about that.

There are some accusations made in your letter, and there is a very clear punishment. CUPE responded, as you well know, on October 18, and stated—

Mr. Ed Fast: On a point of order, Mr. Chair, has the document that Mr. Julian has just quoted from been circulated?

Mr. Peter Julian: This is a letter from Mr. Preuss. A number of members of the opposition have made reference to it, Mr. Fast.

Mr. Ed Fast: Yes. Could we get a copy of it?

The Chair: Could I ask perhaps to have that tabled for all members of the committee?

• (1555)

Mr. Peter Julian: Certainly.

The Chair: We are referring to it. And I would presume it's in French and English.

Mr. Peter Julian: She responds on that date—

The Chair: Mr. Julian, hold it.

Mr. Peter Julian: —that they should not—

The Chair: Mr. Julian, please. I would ask if you're prepared to table that letter for all members of the committee. You can't quote from something in this committee without all members having access.

I'm sorry, but we've had that requested at this committee before, and we've responded in the same way.

Mr. Peter Julian: Mr. Chair, I certainly will table it. But this is correspondence by Mr. Preuss.

So your comments—

The Chair: Mr. Julian, I'm asking you to please arrange for copies to be delivered to the membership before we proceed—please.

Mr. Peter Julian: Mr. Chair, we've already had questions on this letter. I am actually responding to—

The Chair: And a point of order was raised requesting the document. I'm asking, on behalf of the committee members—

Mr. Peter Julian: This is stonewalling, Mr. Chair.

The Chair: I would ask that you do that before we continue.

If you want to continue to ask questions in relation to why Mr. Preuss is here, I will allow that to continue, but until every member has that document, I would ask that you stay on topic—namely, the motion, brought forward by Monsieur Laframboise, to answer allegations made by the Canadian Federal Pilots Association at the committee meeting of February 21. That's the topic we're dealing with, and I've asked Mr. Preuss to answer those questions.

So I would ask committee members to have their questions pertain to that motion—please.

Mr. Peter Julian: Mr. Preuss, following the meeting on June 20, was CUPE punished in any way?

Mr. Merlin Preuss: Not to my knowledge.

Mr. Peter Julian: Not to your knowledge?

Mr. Merlin Preuss: No.

Mr. Peter Julian: So there was no punishment for CUPE appearing before this committee, not in any way, nothing that they would consider punishment.

Mr. Merlin Preuss: Punishment for appearing before this committee? I have no idea how they perceived my actions. I cannot control that. But in that context? Never. It would be beyond reasonableness to even attempt something like that in this transparent world that we live in. I mean, it's beyond—

Mr. Peter Julian: Just so that I understand, Mr. Preuss, you referred to your letter to Ms. Sachs where you said that you were simply offering to provide service, that there was no punishment coming out of CUPE's June 20 appearance before this committee upon that committee's request.

Mr. Ed Fast: On a point of order. Mr. Chair, Mr. Julian is still referring to information that comes out of the letter that he has now agreed to have photocopied. To ask Mr. Preuss questions on that is inappropriate.

Once we have a copy of the letter, I'm not trying to frustrate his—

Mr. Peter Julian: Yes, you are, Mr. Fast, very clearly. I'm referring to his testimony.

Mr. Ed Fast: It's just a matter of time. Let's please get that document on the table, so Mr. Preuss has a copy, I've got a copy, and the rest of the members—

The Chair: Mr. Fast, if I may...

Since the clock is running, Mr. Julian, I would ask you again to stay pertinent to the motion that we are talking about. We're not talking about a letter written to a union representative. We are talking about a discussion that Mr. Preuss had with an administrator at the Canadian Federal Pilots Association, and I would ask you to stay on that topic, please.

Mr. Peter Julian: Mr. Chair, I am. I'm referring to his testimony. Please follow attentively.

Mr. Preuss, you've now stated that there was no punishment following June 20. Your letter was simply an offer to provide service. That's your testimony.

If that is your testimony, I would like to ask you now if, prior to this conversation that you had with Ms. Marquis, were there—

Mr. Ed Fast: On a point of order, Mr. Chair, Mr. Julian is trying to do indirectly what he couldn't do directly. Can we please wait until the letter has been tabled? Let's move on.

Mr. Peter Julian: I am referring to the testimony of Ms. Marquis. I'm not sure why the Conservatives are intervening, but referring to the affidavit that we have from Ms. Marquis, the question is this: did you check or have any conversations with the minister prior to or after this phone call? And subsequent to the CUPE presentation to our committee after June 20, did you have any conversations with the minister about CUPE's appearance before this committee?

Mr. Merlin Preuss: With the minister on those topics?

• (1600)

Mr. Peter Julian: Yes.

Mr. Merlin Preuss: Not to my knowledge. I'll guarantee you I had no conversations with the minister vis-à-vis my administrative actions, which are part of the allegation here. With respect to CUPE, as for whether there were one-on-one conversations with Minister Cannon, no, not at all.

The Chair: Mr. Tilson.

Mr. David Tilson (Dufferin—Caledon, CPC): This is the second time I've appeared at this committee, and it's an interesting committee. We were having a good old time going at Mr. Preuss here. I guess my question is to you, Mr. Chairman.

I'm just looking at what has appeared before us now, and we're questioning Mr. Preuss on an affidavit that was sworn March 15 as a result of a conversation that appeared to have taken place February 21. I don't know how many weeks before that was. I assume from the affidavit that this woman is relying on memory for something that happened three weeks ago. The letter is dated March 28 from Mr. Holbrook.

My question is, if we're going to have this good old time with Mr. Preuss, is Mr. Holbrook? If this is a big issue—and I understand the seriousness, as there are issues raised, there are suggestions of influencing witnesses—is the committee going to have Ms. Marquis and Mr. Holbrook come to talk about this issue? Or are we simply going to rely on this affidavit?

The Chair: The affidavit, as you know, arrived today—

Mr. David Tilson: You see, it's hardly fair to go at this man unless... I understand Ms. Marquis said in her affidavit that her father passed away, and I think we're all sympathetic about that, about the time, but that was some time ago. I assume, Mr. Chairman, if we're going to have a go at him, we're going to have a go at these other people.

It's just a point of order, Mr. Chairman, to you.

The Chair: Acting on the will of the committee, Mr. Tilson, that is something that I think we should consider, based on the fact that this is presented here today, a day that Mr. Preuss is here to speak to us.

Would you like to continue?

Mr. David Tilson: Thank you, I would. That was a point of order, so my time could start now, Mr. Chairman. No? Well, I can try. I'm new here.

Mr. Preuss, in the affidavit, the contentious part seems to be this paragraph, and you have had an opportunity now to read it. Paragraph four says, "I will have an issue". Does that ring a bell with you?

Mr. Merlin Preuss: The wording, no. As I said, I was anticipating problems with the process, the knowledge base of the employees involved. It is simply a matter of my exercising my due diligence on behalf of my employees. It is not normal for line employees to be in front of a committee like this.

If I'm uncomfortable, Mr. Tilson, can you imagine what a working level employee would feel coming before this committee?

At the time I was making the inquiry, I had no idea how they would be asked to be here.

Mr. David Tilson: All I can do is ask questions, and we'll let everybody else make their observations.

Mr. Merlin Preuss: Yes, sure.

Mr. David Tilson: Essentially what's coming out of this is that you threatened them. What's your response to that? You're shaking your head, no.

Mr. Merlin Preuss: It was never my intention. In fact, from my perspective, it would have been a pointless threat. In my experience, it would cause me no end of grief if I even hinted at that type of action.

Mr. David Tilson: There is talk in this affidavit of an e-mail. Do you recall an e-mail being sent?

Mr. Merlin Preuss: I have a good working relationship with the presidents of the bargaining agents and the unions in this country and, for that matter, the associations. So an e-mail in this particular case about my phone number, yes, I changed my cellphone number and I was sending that to everybody.

• (1605)

Mr. David Tilson: So all the e-mail was saying is what your telephone number was. It wasn't anything else then.

Mr. Merlin Preuss: Yes. What happened I think in the period of time from when I changed the phone number and I broadcast the e-mail to most people on my mailing list indicating that my cellphone number had changed.... Then to facilitate a return call from Mr. Holbrook, I wanted to ensure that the association had received my new phone number. That's all that was referring to.

Mr. David Tilson: Can you tell me again why you called Mr. Holbrook?

Mr. Merlin Preuss: I guess to smooth the way for my employees and my managers should any of my employees be invited to appear before this committee in any capacity.

Mr. David Tilson: She talked about tone, almost like suggesting it was a negative type of tone, a threatening tone. That is what the suggestion is. Do you know what she's talking about there?

Mr. Merlin Preuss: No, I don't.

Mr. David Tilson: I have no other questions. This is uncontradicted evidence that he didn't do anything wrong. I haven't heard anything else.

The Chair: Thank you, Mr. Tilson.

Mr. Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Mr. Chair, first of all I want to clear up something here.

If you refer to the minutes of the meeting of February 21, I think you'll see that when the matter of having Mr. Preuss come back before us was brought up, there was a reference made that it would give us an opportunity to look at all of the so-called allegations that may have come up.

I have a series of questions that don't pertain to this particular matter but another one where someone said that something had been said by Mr. Preuss. If you're going to rule me out of order, then I'd rather wait until there's a wrap-up session with officials of Transport Canada, because I don't have any questions on this particular matter. But it is about allegations of some things having been said.

The Chair: The motion that was brought forward was a very direct motion dealing with this particular allegation. I have the motion in front of me. I can read it.

Hon. Mauril Bélanger: Please do.

The Chair: It says: "That Merlin Preuss, Director General, Civil Aviation, Transport Canada, appear before the Committee no later than March 31, 2007, to answer to allegations made by the Canadian Federal Pilots Association at the Committee's meeting on February 21, 2007".

Again, I think to be fair to Mr. Preuss, he saw the copy of the motion and probably came strictly to respond to that, and that's what I've tried to—

Hon. Mauril Bélanger: That's fair, then. I'll wait.

The Chair: I appreciate that.

Mr. Zed.

Mr. Paul Zed (Saint John, Lib.): Thanks, Mr. Chair.

Mr. Preuss, we're just trying to deal with obviously a very specific matter that was raised.

But, Mr. Chair, I'm trying to understand. The witness has responded raising other information, and so why would it be inappropriate to pursue the information that he's responded to? For example, he's responded to the letter. In his reply he specifically raises a letter that occurred between him and CUPE, this Pamela Sachs letter.

The Chair: I ruled that out of order, Mr. Zed.

Mr. Paul Zed: Okay. I understand that you ruled it out of order, but would it not be in order if he circulated the letter? Could we not then pursue that matter? I mean, how can the gentleman properly defend himself or advance a position if we're surgically dealing with one comment that was made in the context of a larger subject area?

The Chair: I think that when Mr. Preuss comes back before this committee we can ask him any of those questions, but this motion is specific. It deals directly with a meeting and that comment.

Mr. Paul Zed: But isn't his integrity at stake? I would think that this gentleman would want to defend his integrity.

There's another media story out today that references a memo. Are you familiar with that, Mr. Preuss?

The Chair: If you would like him to come back at another time to discuss this, I'd prefer it. I'm prepared to entertain it.

Mr. Paul Zed: No, I'd just like to clear it up.

Let me ask this question. Are you familiar with the media story related to a memo—that you are alleged to have said certain things in a memo?

The Chair: Again, I will not allow him to answer that question. Mr. Preuss is here to deal with one specific issue. If the committee

has no more questions on this issue, we can move on to the Tassé report, but I'm not going to allow it to expand into a witch hunt at this particular time.

Mr. Paul Zed: Fine, but that's your characterization.

The Chair: I may have used the wrong choice of words. I apologize for those words.

• (1610)

Mr. Peter Julian: I have a point of order, Mr. Chair.

The Chair: Go ahead, Mr. Julian.

Mr. Peter Julian: That is an entirely inappropriate comment.

The Chair: I withdrew the remarks. I withdrew them.

Mr. Paul Zed: Look, I'm a country lawyer. I'm not a city slicker like Mr. Tilson—

Some hon. members: Oh, oh!

The Chair: Should we ask him to withdraw that remark?

Mr. Paul Zed: No, no. He's a city lawyer.

Let me ask a specific question, then, on this affidavit.

Are you surprised that this matter is now before this committee and that it's receiving this kind of media attention? You described it as a fairly innocent unsolicited phone call, but on a regular basis you have this intervention with this group. Are you surprised that you're here today, having this kind of conversation—a dialogue, an exchange at a high level—as the object of the interest of many members of Parliament?

Mr. Merlin Preuss: I am totally surprised, Mr. Zed, especially since I'm on record with my disciplinary policy and my attempt at transparency in civil aviation. I am totally surprised.

Mr. Paul Zed: Could you provide for the committee a list of other people who received phone calls similar to your call to Ms. Marquis?

The Chair: Mr. Tilson has a point of order.

Mr. David Tilson: I'm sorry, I have to say something.

I thought this was dealing with one issue, the allegation of a phone call that was made on February 21 or whatever the date was—that's all. If we're going to go on a hunt to talk about the alleged conduct of this man somewhere else, he may want to have someone here with him, for all I know. He's here all by himself.

He wasn't put on notice that he was going to be quizzed on all these things, whether by Mr. Julian or Mr. Zed; his idea was that he was going to be quizzed on this affidavit, and that's all.

Mr. Paul Zed: He didn't even know the affidavit existed.

Mr. David Tilson: I'm just telling you that's the issue before this committee today. It may well be that this may blow up into something. I hope I'm not around, but if it is going to blow up, that'll be for another day, not today.

The Chair: While it's not a point of order, I do agree with the point you make. The questions have to be relevant to the comments made as of the meeting on February 21, and I would ask—

Mr. Paul Zed: Then let me go back to those comments.

Those comments were made in the context of Mr. Preuss's conducting some inquiries throughout his duties to various persons as they related to Bill C-6. Is that fair?

Mr. Merlin Preuss: I don't believe so, Mr. Chair. The allegations were associated with a phone call I made to the office of the bargaining agent for the pilot inspectors based on the fact that I understood the context was meeting 35, at which direct reference was made to inspectors appearing here. The context was clear in my mind; it was pilot inspectors.

There were two ways, in my mind, that I would find out that employees were going to be appearing here. One is by your direct invitation to them, or on the happenstance—and I have no idea whether that was the intention, or even a possibility—that they would appear beside Mr. Holbrook as part of his contingent before this committee.

That is all I was inquiring about.

The Chair: Thank you.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Mr. Chairman, it's somewhat more complex than that.

First of all, Mr. Preuss, you're not denying that you spoke with Ms. Marquis over the phone. In her sworn affidavit, she said as much. You're not denying that.

[*English*]

Mr. Merlin Preuss: I cannot confirm that those are the words I used, because frankly I don't remember. It was some time between the 14th and the 21st of February. I thought no more about it until Mr. Holbrook appeared before this committee on the 21st. I had no idea what words were being bandied about. In fact, if I recall the record and can refer to my notes here, I believe that is not what Mr. Holbrook read into the record.

If you allow me a minute I can probably find that particular reference. Here it is, if you would allow me, Mr. Chair.

•(1615)

The Chair: Yes.

Mr. Merlin Preuss: It reads: "...Transport Canada official called my office after learning that the CFPA was to testify and stated, 'It will be a problem' if any TC inspectors appear before your committee to talk about safety concerns."

Mr. Chairman, I do not see that type of phraseology in the affidavit, so it's just about impossible for me to comment on words I may not have said.

[*Translation*]

Mr. Mario Laframboise: You placed a call and Ms. Marquis answered the phone. You spoke to her. You don't recall the exact conversation, but you did speak to her. Is that right?

Mr. Merlin Preuss: Absolutely.

Mr. Mario Laframboise: What I've been saying for a while now is that because of the words you used it's possible that this individual thought you wanted to influence her testimony to the committee.

You said you're sorry for giving people that impression and that it was not your intention to influence people's testimony.

You may have been well-intentioned, Mr. Preuss, but the problem is this: you are in a position of authority and prospective witnesses got the impression that you wanted to influence their testimony to the committee. That's what I'm having trouble accepting. If my Conservative colleagues are alright with this, then it's their problem. I cannot accept the fact that as a senior official holding a responsible, influential position, you may have exerted the slightest bit...

[*English*]

The Chair: Mr. Storseth has a point of order.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Sorry to interrupt, Monsieur Laframboise. I just want to set the record straight here.

The translation could be off, but from what I understand, Mr. Holbrook was never contacted by Mr. Preuss. When Mr. Holbrook was here at the committee he suggested that perhaps his secretary felt that somebody could have been trying to influence. So it wasn't somebody directly talking to a potential witness. I just wanted to set the record straight on that.

The Chair: That was not a point of order.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: That's what worries me about your attitude. Let me repeat that you're not denying having called Ms. Marquis and spoken to her.

You're not denying that fact, are you?

[*English*]

Mr. Merlin Preuss: No, of course not.

[*Translation*]

Mr. Mario Laframboise: Precisely. As I said, it's possible that Ms. Marquis interpreted your actions and comments to mean that. Is that possible?

[*English*]

Mr. Merlin Preuss: You'd have to ask her. I have no idea how she perceives me. She has to make that decision herself. All I can tell you is that it certainly wasn't my intention to—

[*Translation*]

Mr. Mario Laframboise: Fine then. Since we have Ms. Marquis' sworn affidavit, there is no need for me to ask her any new questions. She has stated under oath that this was her take on the situation and that, I cannot accept, Mr. Preuss.

Earlier, you told me that you were not a law clerk and that you were not familiar with all aspects of the law. However, influencing the testimony of a witness slated to appear before a committee constitutes contempt of Parliament, sir. I would think that you would have given that some thought and considered apologizing to us for your actions, for what I see as contempt of Parliament.

My colleagues can decide for themselves how they wish to interpret this situation, but as committee members, we believe that witnesses who agree to testify mustn't be pressured by anyone, especially not by a senior government official such as yourself.

I trust you understand clearly that you cannot do something that could be interpreted by someone as an attempt to influence his testimony to the committee.

You do understand that?

[English]

The Chair: Mr. Wallace.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chair. It is also my pleasure to be here today.

Mr. Preuss, thanks for coming.

The motion that was read by the chairman indicated that you are here really to reflect on what was an impression of a telephone conversation. I have a couple of questions, but one question I have for you is this.

You've read the affidavit. It says in paragraph 7, "Hello, Greg", and this is you speaking, so I'm assuming that, based on the phone call you got, the number came up as his number. I'm sure Greg is a "he". So you thought it was him calling, is that correct? Would you say that was—

• (1620)

Mr. Merlin Preuss: Yes, it would show up on my call display, because I have his number in my system.

Mr. Mike Wallace: Okay. And the woman who is swearing the affidavit indicates that she is the assistant and that she is getting back to you on the information you had requested. Would that be a good analysis of what is said here?

Mr. Merlin Preuss: Yes.

Mr. Mike Wallace: And that he would be alone?

Mr. Merlin Preuss: Yes.

Mr. Mike Wallace: And your response was, "OK. Thanks."

Mr. Merlin Preuss: Yes.

Mr. Mike Wallace: Let's assume—she did say there's some family tragedy here, so it took her a while to get back to here—that this is accurate.

For somebody who sends you a threatening phone call, if you think of it as threatening or anything, do you not think...? It strikes me that if it were perceived as being some sort of difficult phone call, maybe the boss would call you back, or that they might not even call you back to deal with it. I find it strange and wonder why, if it was intimidating, they would just call you back with the answer and you didn't pursue it any further.

Do you wish to make a comment to that end? If it was such a threatening phone call, why was the answer so colloquial, to put it that way?

Mr. Merlin Preuss: I guess I can refer back to my opening remarks and also the statement I made earlier, that I was quite surprised that there was any negativity associated with my call. Certainly, as I said in my initial remarks, if there was an issue, I still remain puzzled as to why, given that I have a good working relationship with Holbrook, he didn't come back to me and ask me to explain myself. None of that ever happened.

So at that point in time, where the affidavit says "OK. Thanks", that was now washed from my memory banks as anything to be concerned about in the future.

Mr. Mike Wallace: I don't find your responses too intimidating here today, but just in your last response you used the word "issue". You probably didn't even realize that you used the word "issue", but you did: if there was an issue, you were surprised that he didn't call you back.

Would you say that you use the word "issue" not always in a negative context, but just in a regular course of conversation that you have with people?

Mr. Merlin Preuss: I think in the lexicon of Transport Canada civil aviation we tend to talk about issues. It's rather a neutral term. It doesn't become pejorative at the outset. So yes, it's a common term, both in French and English, that I use to talk about things that need to be discussed.

Mr. Mike Wallace: Okay.

Her interpretation is that in your communication you wished to discourage Transport Canada inspectors from testifying. Do you agree with that comment or not?

Mr. Merlin Preuss: Again, as I said before, I can't speak to how she heard the words I said. I can only refer to what she says the words were and what my intention was in making the phone call.

Mr. Mike Wallace: Thank you, Mr. Chairman.

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): I have a couple of things.

First of all, I appreciate that you ruled on the issue of the CUPE letter. But Mr. Chair, I would also point out that in the answer Mr. Preuss gave, he is the one who entered that into the issue...or into the question—

• (1625)

Mr. Mike Wallace: *Voilà.*

Mr. Don Bell: No, no, the issue in this case being his objection. I just wanted to make that as a reference. It wasn't raised from outside; it was raised within his testimony.

The question I have is this. Flowing from this letter we're referring to from the Canadian Federal Pilots Association, of which we all have copies, if the impression Ms. Marquis has is that you were attempting to discourage Transport Canada inspectors from testifying, let me ask in that vein, so that I can get clarification...and I have heard your answer to the other members. Normally if you were aware that this committee had asked Transport employees to appear before it, would you brief them ahead of time as to what was acceptable to be said? Do you do pre-briefings, in other words?

Mr. Merlin Preuss: Yes, but it wouldn't be me in this context, necessarily. I'm not an expert on the Government of Canada policies vis-à-vis public servants appearing before committees. I do know that a document exists, and had I any indication that employees were going to be invited to this committee, then I would have gone directly... And before I made the phone call, I did discuss with the experts in our human resources and labour relations organization what the context could be here and what my responsibilities were. But had this gone to the next step, either through an invitation from the committee or through an acknowledgment from Mr. Holbrook that he intended to bring serving inspectors with him, then my next step would have been to go to the experts, seek their advice and their counsel, and probably their aid in making everybody—the managers who could be involved, because the people reporting to them would be here instead of at work, and the employees themselves—have a clear understanding of their roles, their responsibilities, and of course their rights.

Mr. Don Bell: When you're dealing with issues that potentially deal with safety, and a committee such as this is seeking answers from people, there's the extra caution needed to try to avoid the perception that somehow the answers are being filtered or tainted, or whatever you want to call it, or directed, as opposed to a committee such as this having the ability to get information from individuals. We would have the ability, obviously, to ask you to appear, or we could ask a staff member to appear, lower staff members, because we wanted an answer or we wanted information from those staff people.

Mr. Merlin Preuss: I'm well aware of the prerogatives of this committee, and it would not be my intention to curtail its work in any way, but in fact, just the opposite; I would seek to smooth the way for the appearance of people you would invite from inside our organization.

Mr. Don Bell: When I started with my hand and I had the extra question, the reason I raised it was really in response to the point of order in your ruling, because my understanding from procedure is that if an answer comes back in response that raises something new—such as what occurred in the answer in the reference to the CUPE letter—that then in effect brings it into the discussion.

The Chair: I would suspect it might in a court of law, and if I missed it earlier, I should have corrected it at the time, but we are dealing specifically.... And I thank you for the advice.

Mr. Don Bell: I just want to point out that I'm what they call a Philadelphia lawyer. I'm not either a country or city lawyer on this one.

The Chair: Nor am I.

Mr. Fast.

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

Quite frankly, I'm disappointed with the direction this particular meeting has taken. I did notice that my Liberal colleagues were careful not to accuse Mr. Preuss of contempt of Parliament. Even Mr. Julian didn't do that.

But Mr. Laframboise, it really concerns me that you have made the allegation that Mr. Preuss is in contempt of Parliament. It's a very serious allegation to make of someone who has served many years for this government, who is one of the most senior officials—

The Chair: Mr. Julian, on a point of order.

Mr. Peter Julian: Mr. Chair, I believe this is a question period. If Mr. Fast would like to ask a question of the witness, that would be appropriate. This is not a “berate other members of the committee” moment.

Mr. Ed Fast: May I continue, Mr. Chair?

Mr. Peter Julian: It's inappropriate.

Mr. Ed Fast: It's not a point of order.

The Chair: It's not a point of order—

Mr. Ed Fast: Nice try.

The Chair: —and I will ask Mr. Fast...I know there's a question in there.

Mr. Ed Fast: There is a question. I do have a good question, but my concern is that we've made allegations here and I simply wanted to encourage Mr. Laframboise to reconsider his remarks.

[*Translation*]

Mr. Mario Laframboise: If he wants to discuss the matter with me, I'm ready to do so any time, any place. That's not a problem. Only I would suggest he pay attention to what he says.

[*English*]

Mr. Ed Fast: Mr. Chair, I'm just putting that on the record. This meeting and the comments of this committee have the appearance of a drive-by smear of someone who's spent many years working for this government.

Mr. Preuss, what I'd like to ask you is this. Is it not the role of government, and your role in particular, to make sure that the people who are employed for your department are fully informed of all aspects of the job they're expected to do?

Mr. Merlin Preuss: Yes, absolutely.

Mr. Ed Fast: And when employees who work for you are expected to deal with parliamentary committees, deal with the public, isn't it fair to expect that they would be fully informed as to their obligations, their legal obligations, and the information they might be expected to provide?

●(1630)

Mr. Merlin Preuss: Absolutely.

Mr. Ed Fast: And would you not agree with me that you also would want to be fully informed of what your employees are doing in the scope of their employment?

Mr. Merlin Preuss: Fully informed on what they're doing in terms of their employment, yes; but that does not extend to my influencing their testimony.

Mr. Ed Fast: No, and I didn't suggest that by the question.

Mr. Merlin Preuss: Okay. But yes, I'm responsible for their well-being when they're on duty.

Mr. Ed Fast: So it's not uncommon for you to have a desire to communicate information to them and to desire that they communicate information to you?

Mr. Merlin Preuss: It's my responsibility to make sure they're well informed and to seek their feedback.

Mr. Ed Fast: Quite frankly, you've given an explanation at this table today that I find quite satisfactory. I think it's reasonable. I think it's fair to say that there's some ambiguity as to the words that were used. We're not even sure whether the word "issue" was used. I'm not sure there's testimony that Mr. Preuss actually used the word "issue".

When we look at some of this information—we're looking at Mr. Holbrook having used the word "problem"—and given the fact that there's some ambiguity, a suggestion that there was contempt of Parliament is to me far-fetched, Mr. Chair.

Again, I just want you, for the record, to state whether in fact it was ever your intention to influence the testimony an employee of this government would give to this committee.

Mr. Merlin Preuss: It was never my intention.

Mr. Ed Fast: All right.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Fast, and thank you, Mr. Preuss.

Mr. Peter Julian: Chair, I have a notice of motion. This would be for the April 16 meeting: that we request Mr. Preuss to come before this committee on April 18 for two hours to respond to concerns of members of the committee and to answer all questions related to air safety.

I'll be circulating that topic.

The Chair: Thank you.

And thank you, Mr. Preuss, for attending. We appreciate your time and look forward to seeing you again at future meetings.

Hon. Mauril Bélanger: I have a question, Mr. Chair. May I ask you a question?

The Chair: Absolutely. I am sorry.

Hon. Mauril Bélanger: I would like to know, Mr. Chairman, if you could take a minute or two to give us a projection for future meetings for wrapping up the hearing of witnesses on Bill C-6. One I'm particularly interested in is having officials come to the committee, which we'd already agreed we would do, so that we can ask questions related to Bill C-6 and the testimony we've heard, but not just from one particular meeting.

Also, will the minister be appearing before the committee any time soon vis-à-vis Bill C-6 or vis-à-vis main estimates?

The Chair: I'm just going to ask the clerk to get the schedule of future dates. Can I report back to the committee right at the end?

Hon. Mauril Bélanger: Absolutely.

The Chair: Okay. We have next, pursuant to Standing Order 108 (2), a study of the Roger Tassé report on the review of the Toronto Port Authority.

Is Mr. Tassé here?

We will suspend for two minutes while we get him into his chair.

• (1630)

(Pause)

• (1635)

The Chair: Welcome back to the standing committee, meeting number 42, part two.

Joining us today is Mr. Roger Tassé, legal counsel at Gowling, Lafleur and Henderson.

I'm assuming that you've appeared before many committees. We'll ask you to make a brief statement and then we'll proceed to committee questions.

[Translation]

Mr. Roger Tassé (Legal Counsel, Gowling, Lafleur and Henderson, As an Individual): Thank you, Mr. Chairman.

Good morning, gentlemen, madam.

[English]

Thank you for the invitation to appear before your committee to answer your questions.

This review began in May 2006 at the request of the Minister of Transport. There were concerns about whether the Toronto Port Authority had well managed its responsibilities. There were allegations in the press and elsewhere about actions that the authority had taken with respect to the fixed link, which eventually was approved and eventually was cancelled, and the settlement that occurred thereafter.

The purpose of my review was to do just that: review the decision regarding these matters. The minister wanted to be satisfied that the principles of good governance had been upheld.

My mandate, which you will find as attachment 2 of my report, sets out specifically the questions that I had to look into in the context of a very important agreement that was entered into in 1983 between the federal government and the then Toronto harbour commissioners and the City of Toronto.

I had the assistance, for the purpose of my review, of Jeffrey Smith, who was retained by the Department of Transport. Jeffrey Smith is a member of the BDO Dunworthy firm of forensic accountants. You have a summary of his findings attached to my report.

For the review, I had the assistance and cooperation of quite a number of people: the City of Toronto, the staff of the city, members of the Toronto Port Authority or TPA, the Department of Transport in Toronto and at an office here in Ottawa, and the Department of Justice lawyers who had been involved in the various events under review.

I received great collaboration from all the people I talked to. I have looked at hundreds and hundreds of documents, if not more. I met with anyone who wanted to talk to me about the TPA and their management, the decisions that had been made, the concerns they had. I received a lot of e-mails and had a lot of meetings, including meetings with representatives from the community associations on the Toronto waterfront. You have a list of the members.

Now for my findings.

In summary, I've come to the conclusion that the Toronto Port Authority had complied with due diligence requirements in all respects on the matters that concerned the proposed construction of the bridge, the purchase of the new ferry, and the commercial arrangements that were entered into as part of the settlement agreement. This is discussed on page 3 of my report.

The overall settlement after the cancellation occurred, as you will well know, cost \$35 million, and there were a lot of questions relating to that amount. People were saying, why would it cost \$35 million to settle claims? We don't have a bridge, and the bridge itself would have cost \$14 million. So there were a lot of questions.

And people were concerned that one of the difficulties, perhaps, was that in effect there was not much information that could be made public and was made public at the time regarding the process of negotiations.

• (1640)

But I've come to the conclusion, and I will say more if required later, that the amount of \$35 million was reasonable, that the principles of good governance here again had been respected not only in reaching the global settlement but also in the way the \$35 million was allocated to each of the parties who were involved and who had been damaged by the cancellation of the bridge.

I looked at the Aecon contract. Aecon was the builder who had been retained, after a process of tenders, by the authority to construct the bridge. There had been allegations that in effect the construction contract had been purposely and inappropriately accelerated to ensure that the bridge could not be stopped by a new municipal administration. I deal with that in my report very carefully, at pages 64 and 68.

My conclusion, after having looked at all the circumstances, talking to people, and having looked at the documents that were available, is that such allegations were grossly exaggerated, and I have set out the reasons on page 66 for my coming to that conclusion.

There were also many questions about the environmental assessments that had to be performed before the contract could be let. There were assessments in 1999, in 2003 regarding the bridge itself, and in 2006 regarding the ferry, after the bridge had been cancelled. I reviewed in detail the various stages of the environmental processes, from the beginning to the end. You will find that on seven pages, on page 68 and following. Again, my conclusion was that principles of good governance have been complied with.

It was not easy. Every step had plenty of difficulties, but my conclusion is that the TPA itself managed the issues well, and the processes as well.

There was a question as well that had been specifically raised by many, and that was part of my mandate. There were questions about how it was that the Toronto port had come to be governed by the Canada Marine Act. I have read fascinating debates in the House of Commons and in the Senate. This is related at page 90.

In effect, there were two administrations involved. They were two Liberal administrations, but there was an election between. First, Bill C-44 was introduced; there was a lot of debate about it. And there was another, Bill C-9, which followed the election of the Liberal government.

Again, if you're interested, I can tell you more about that. I've learned a lot about Toronto and about the Senate committee and the House of Commons committee debates on these matters. I found them fascinating.

But my conclusion was that Parliament had decided that the Toronto Port Authority qualified as a national port and that it should be on the list. Parliament itself—you people—had decided that it should be on the list. It was not a function or a responsibility that had been left to a minister afterwards.

There were provisions for the minister later to look at applications that other ports in Canada might make, and there were some criteria. These criteria were before the House when the list was devised and when steps were taken and amendments were made to get the Port of Toronto and the Port of Hamilton on the list. I didn't find anything wrong with that.

Although the department itself initially had proposed and the minister had agreed that Toronto should not be on the list, eventually—I guess there were caucus meetings and members' meetings—the decision was made, and there was an all-party agreement that the Toronto Port Authority should be on the list.

That's enough of that.

An hon. member: An all-party agreement?

Mr. Roger Tassé: An all-party agreement, yes. I discuss that in my report.

I have perhaps just one or two more comments, Mr. Chair.

• (1645)

There have been allegations that the port authority was too secretive and that it was not transparent, not making documents and reports available. Indeed, I found they had problems in complying with requirements of the CMA regarding the land use plans and their business plans.

There's no provision—unless there was an amendment in the last six months—in the CMA for the port authority to make an annual report. It doesn't mean that there were no annual meetings, but there was no requirement. They were preparing financial statements. They would call meetings, and they would try to respond to questions. So in this way they were trying to be transparent. But there are no requirements in the act or the letters patent for annual reports.

If there had been an annual report, it would have been an annual report of the Toronto Port Authority, not...the TPA itself. I note in my report that this is a bit of a problem. Having the activities, plans, or objectives of the port nested into the greater whole of the port's information is not the best way to disseminate information about it.

I think I will stop here. Thank you, Mr. Chair. I think you've heard the main points.

• (1650)

The Chair: Yes, and a lot will come out through the questioning.

Hon. Joseph Volpe: More than a lot will come out.

Mr. Chair, I wonder if you would allow me a point of clarification for the edification of all members. I think it's important for all members to declare a personal interest in something and to advise all others that there may be a colouring of the questions that might be asked and the observations that will be made.

For the purposes of transparency in government, if you'll allow me to do that before I begin my questioning, Mr. Chairman, I would be eternally grateful.

The Chair: It's your time.

Hon. Joseph Volpe: It's not a question of time, I'm asking you to give me a couple of moments to make the clarification. Then I'll proceed with the questions.

The Chair: Go ahead.

Hon. Joseph Volpe: Thank you.

Some members around the table may know that I was the political minister responsible for Toronto. One of the issues for which I was responsible was the Toronto Port Authority. I was part and parcel of that negotiation of the non-construction of a bridge and the settlement that led to a \$35 million expenditure in lieu of a \$20 million bridge.

I note that one of the other parties has now been replaced by the former city councillor in that area and was an advocate of the non-construction of the bridge and the elimination of the Toronto Port Authority, and an advocate of the lands administered by the port authority being transferred to the municipality.

I think it's important to understand that, because the questions I might ask Mr. Tassé will indeed be coloured by the experience I've had. I would further add that I'm also a member of Parliament from Toronto, one of two around the table, which makes the issue rather narrow.

Do you feel comfortable with that?

The Chair: Please.

Hon. Joseph Volpe: Thank you.

Monsieur Tassé, I note in your report—and you've repeated it in your presentation—that you think everything seems to be just fine with this port authority, other than some of the internal administrative issues. Is that an accurate perception?

Mr. Roger Tassé: I've been asked, Mr. Chair, to review the decisions that have been made by the port authority in regard to certain matters. I have come to a conclusion that they behaved well and managed their responsibility well.

I have noted a number of points that appear to me to be lacking, to be weaknesses in the administration and in the law, and I think there's room for improvement. For example, I have recommended that they should have a program to reach out to the people in Toronto, the community, the users, and to be more forthcoming.

Also, I mentioned that they should comply with their obligations regarding the preparation of plans to be made public and annual reports be made public. There's nothing perfect, but I must say it is a far cry from what the people were alleging or what the people told me. And I am not blaming anybody.

• (1655)

Hon. Joseph Volpe: You'll leave that to me. But I don't want to revisit some political history.

Mr. Roger Tassé: Yes, I'll leave it to you.

Hon. Joseph Volpe: Mr. Tassé, was your law firm commissioned by the Government of Canada to assess its liabilities vis-à-vis the non-construction of that bridge?

Mr. Roger Tassé: The result of the non-construction?

Hon. Joseph Volpe: Yes.

Mr. Roger Tassé: To my knowledge, the firm has not been retained.

Hon. Joseph Volpe: Okay.

Mr. Roger Tassé: I myself have been retained, and I could go over that. I have been retained to assess whether or not principles of good governance had been complied with. For that purpose, I had a lot of discussions with lawyers and I looked at advice that was given. But I have not been asked formally to give an opinion.

Hon. Joseph Volpe: No, Mr. Tassé, what I meant was that in 2004 the bridge was not built. You're quite right in your report. You pointed out that city council had agreed and voted upon the building of that bridge not once, not twice, but three times.

Mr. Roger Tassé: Exactly.

Hon. Joseph Volpe: The mayor ran a campaign saying they had to not build this bridge.

Because the Government of Canada, on the urging of the mayor, decided not to be a part of a tripartite group in building this, there were court cases initiated. The Government of Canada sought legal opinion. What I asked was whether or not your firm had been commissioned to offer some of that opinion. Your answer, I gather, is no.

Mr. Roger Tassé: Not to my knowledge.

Hon. Joseph Volpe: So the \$35 million settlement that you studied came as a result of three parties coming together to agree—the three parties being the city, the federal government, and the TPA—to deal with the court cases that were being launched, the suits that were being launched, against the City of Toronto.

I know you've read the document, which said to hold safe, harmless, both the city and the federal government from further litigation. Is that an accurate reflection?

Mr. Roger Tassé: Yes, except that I would just point out that while their representative came to earlier meetings, I think it was in June 2004 that the City of Toronto eventually informed the other parties that they could not go any further because they could not get any instructions as to further negotiations. In effect, they were ready to discuss the disbandment of the airport, and the Department of Transport had been instructed that this was not part of their mandate.

Hon. Joseph Volpe: But in the final analysis, the settlement that led to \$35 million in order to keep the city and the federal government safe, harmless, from further liability was accepted by the City of Toronto.

• (1700)

Mr. Roger Tassé: They didn't have to pay anything, and they were getting a complete waiver of any claim that might exist against them. It was a good deal.

Hon. Joseph Volpe: I'm being very precise, Mr. Tassé, because I know you were very precise in your analysis, from what I read.

The City of Toronto had to sign off on that; otherwise the money would not have and could not have been paid?

Mr. Roger Tassé: Yes, they did sign off.

Hon. Joseph Volpe: Thank you.

Mr. Roger Tassé: I'm just explaining why they did sign off.

Hon. Joseph Volpe: It's important to know, because the allegations that you refer to later on came from some Toronto city councillors who woke up two months after the settlement and said, oh my gosh, how can we pay \$35 million for a \$20 million non-bridge? In fact, it was designed to ensure that there would be no further actions against the city.

Mr. Roger Tassé: Against the city, the TPA, and the government—we wanted to have full closure of all claims against anybody.

The Chair: Thank you.

Monsieur Carrier.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you.

Good day to you, Mr. Tassé.

Mr. Roger Tassé: Good morning, Mr. Carrier.

Mr. Robert Carrier: I'm pleased to meet you.

I don't know Toronto very well. I rarely visit this city. However, when the Standing Committee on Transport examined the various airports in Canada, we did have an opportunity to go through Toronto.

I was surprised to learn that the majority of complaints about operations and fees, particularly the landing fees charged to various airlines, involve this airport. It reached a point where companies were contemplating leaving the airport and landing in other cities such as Montreal. At least, these are some of the comments we heard.

You make the following recommendation in your report, and I quote:

A determined effort should be made by the TPA to take a more proactive approach to community consultations. It would be important for the TPA to reach out to organizations and groups who have raised concerns about its operations to build relationships and stimulate reasonable discussions [...]

This is similar to the comments that I had already heard to the effect that the administration failed to take into consideration the complaints of users, carriers and people living close to the airport.

This might be quite aside from the particular situation that you examined, but in my view, the results are more or less the same. I have the Minister's response to your recommendation. He indicates that he fully supports this recommendation and encourages the TPA to also support this important consideration.

In light of the comprehensive study conducted, are you genuinely confident in the will of the government, whatever government that may be, to improve the operation of port authorities, to ensure that sound decisions are reached?

Mr. Roger Tassé: Thank you for your question.

For openers, let me just say that communication with the port authorities and between the different stakeholders in the port of Toronto, particularly at the airport, are extremely difficult. One of the reasons for this is that several of the representatives who attend meetings have only one goal in mind, namely shutting down the airport.

Given that goal, it's not surprising that over time, tensions mount, inflexibility sets in and people have trouble communicating with one another maintaining good relations. Given that many of these people attend these meetings to let authority officials know that they have a responsibility, that they would like to have them relocate, that this airport should not operate like it does...

I have nothing against those who would prefer to see the land converted into parkland, but for the time being, an airport operates on this site pursuant to an agreement between the various parties, including the City of Toronto. The city is bound by this agreement. However, the people who live in close proximity to the airport want to see this facility shut down.

As I see it, the challenge here — and as I said to the Minister, it's the port authority's challenge, not his — lies in trying to resolve this issue with the help of mediators who try and find ways to bring the parties to the table to look at ways of resolving a problem situation, and also at how the port authority itself could provide more information, something that might reassure people. We've observed that the type of questions most often asked do not reflect the will to find solutions to real problems, but rather the will to identify problems and to show that things just aren't working.

The prevailing climate isn't very good.

• (1705)

Mr. Robert Carrier: Regardless of the problems you mentioned, these must be resolved by taking a positive, proactive approach. The Port Authority has a responsibility to come up with some good solutions.

Are you hopeful that the government will take steps to ensure that future improvements are made? You've made some recommendations and the Minister supports you, but he continues to single out the same Port Authority as the source of the problems.

Mr. Roger Tassé: I admit that I've been somewhat removed from this file for the past six months. It has not been my main concern. When the Minister released my report, he stated that he supported this recommendation and would make every effort to improve communication and foster more openness. This is an important objective if we are to ease the animosity and tension that are present between the community and the Port Authority.

[English]

The Chair: Thank you.

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): It's difficult to reduce the animosity when there's a libel suit against the citizens of Toronto. When some of the residents spoke out in the past, the port authority decided to sue them.

But anyway, we do know that the port authority belonged to the City of Toronto for 87 years, since 1911, and until the Canada Marine Act came forward in 1998, at which time the federal government took control of it. So just for background information, historically, it always belonged to the City of Toronto until 1998 and the Canada Marine Act.

I have just a few questions.

Centred around the \$35 million, it is true that it's hard to quite understand that a bridge of \$20 million or \$22 million would cost \$35 million to settle. At that time, there was a contract with Aecon, which is the construction company, to build the bridge. There were three conditions: there needed to be a permit under the Fisheries Act; there would be approvals from the Navigable Waters Protection Act; and then, of course, the environmental assessment.

My understanding is that the Fisheries Act permit was not in hand until January 15, 2004, long after the former Prime Minister, Mr. Martin, had indicated that the federal government would respect Toronto's wish and desire to have the bridge cancelled. So if the permit wasn't there, then I would think the port authority would terminate the contract.

Also, in regard to the Department of Fisheries and Oceans and the coast guard, the permit was not in hand and there was no approval in place. So wouldn't it be prudent to wait until the permit is in hand before waiving these conditions, before the contract gets completely signed? Why would TPA be so quick to sign away all these conditions?

Also, of course, the environmental assessment is subject to Federal Court appeal, as you know.

So in those three areas alone, given that these conditions have not been met, by waiving these conditions before the approvals were issued, isn't the TPA really the author of its own problems? That is why, in my mind, the federal government should not have paid out the \$35 million, because \$35 million is a lot of money.

• (1710)

Mr. Roger Tassé: How much time do I have?

Ms. Olivia Chow: Well, my question was very quick, shorter than others' questions.

Mr. Roger Tassé: My answer could be very short. I find that they complied with the requirements, that they followed the business rules.

I think if you read my report carefully—and I went to some length on the contracts, on the environmental processes that were followed—you'll see that my conclusion is very clear. You cannot blame them for anything wrong. When the contract was signed in August, there were conditions. The conditions related to the matters that were approved.

There was one that maybe wasn't mentioned. It was from Treasury Board, and it was about the borrowing authority, which was quite important. As well, there were the two other permits.

The environmental assessment proceeded during the summer, and there were discussions not only through the consultant that they had retained but also with the department itself. There were three departments involved, and they themselves were also following. They gave assurances that, in effect, the permits would be changed, and Treasury Board gave assurances as well that the borrowing authority would be changed.

You don't wait until you get the paper. You could proceed on the basis of the formal assurances that are given. They were given in time. People were complaining as if there were something very wrong that happened when the permits were issued. Were they not issued? They were issued.

Ms. Olivia Chow: They were, in January.

Mr. Roger Tassé: They were issued at the time the authority determined that the final conditions had been met. It was October 31. On October 30 and October 31, they said, okay, we sign the contract. And not only that, they had discussions with their lawyers. They asked their lawyers, what if, for some reason, the Department of Fisheries wouldn't issue it, or didn't want to issue them—any reason, that the minister's office didn't want to issue it—what could they do? Sue them? Because at that point in time, everything had been completed. Everything was in order to proceed, and they did proceed. Can we blame them for that? What should they have waited for?

They had the receipt. They came in January...but they did get paid, so what's to complain about? I think that's risk management. I think this is done regularly in the business of construction, and people assess their risks. There may be times—I've not heard of many—when in effect the environmental assessment approval would not be granted in due time, but the risk did materialize here. The conditions were met.

Ms. Olivia Chow: They were met afterwards?

The Chair: I'm sorry, you have to share the time.

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

Thank you, Mr. Tassé, for coming today and clarifying some of this information. Obviously this issue is new to me, because I'm from the west coast. I have much more knowledge of west coast ports than of the Toronto Port Authority.

However, as you know, there's been some criticism of your report. The mayor of Toronto, of course, criticized the report and said that it was not worth the paper it's written on.

Of course, Ms. Chow is with us today, and she called the report a whitewash. And when I hear the word “whitewash”, it implies that you entered into your obligations to do this report with a preconceived bias. The word “whitewash” is a pretty pejorative term, so the accusation is that you entered into this with some type of a bias. So my questions are going to be focused on that.

When you were retained to do this report, were you ever instructed by a government official as to what government expected the report to say?

• (1715)

Mr. Roger Tassé: Not at all. I was given a free hand. And I didn't know very much about it. I came in out of the cold, and that is why it was so fascinating. I listened to everybody. Everybody wanted to talk to me. I talked to Madame Chow, I talked to Mayor Miller, and I talked to anybody who wanted to talk to me. As I said, I talked to Mr. Crombie. I talked to anybody. I wanted to learn about the situation, and it was not easy to come to grips with this jello, because it is quite a fascinating story. It was difficult to really penetrate the real things that matter and what was really going on.

A whitewash? That's why I reacted the way I did when I heard that on the conference call—

Mr. Ed Fast: Yes, I have a copy of that.

Mr. Roger Tassé: —with a number of newspaper reporters, a couple of hours after he said this wasn't worth the paper it was written on: well, has he read it? I am not saying that everything is perfect in this report. I was limited, but I think I got to the crux of the problems almost everywhere where there were issues to be dealt with. I think to say it's not worth the paper is not real.

But I have not heard any other criticism. What are the other criticisms? There was a big silence. After a couple of articles in the press, there was a big silence. I didn't know what to think. I said, maybe they are getting ready for the next ball. They have attacked the TPA, and now they will go after Tassé.

Mr. Ed Fast: Mr. Tassé, perhaps I could follow that up.

Mr. Roger Tassé: I'm sorry, I don't want to take too much of your time.

Mr. Ed Fast: No. That's okay. I will just follow up on that.

You have practised law for a long time, I assume.

Mr. Roger Tassé: In my career I've done a lot of things. I practised law in the last few years. I've been in the Department of Justice. I was deputy minister. I've had a long and very interesting and fascinating career. I have touched on all kinds of matters. This is the first time I've touched on the port authority.

Mr. Ed Fast: Let me ask you this. During your career, certainly as a lawyer, had you ever been accused of lacking objectivity?

Mr. Roger Tassé: Quite the reverse. I think over my career I have shown I have an independent mind. I worked for Mr. Trudeau for many years as his deputy minister at the time of the charter. I worked for Mr. Clark for a few months. I worked for Mr. Mulroney as deputy minister, but also as a counsellor on constitutional issues.

So I think I have been recognized as being able to make up my own mind. When I talked to the Department of Transport, they knew I had a mind of my own, that I would come to my own conclusions. I

am prepared to discuss, I am prepared to listen, I am prepared to consider the views of the people, but I can make up my own mind.

Mr. Ed Fast: As your report suggests, is it fair to say that a lot of the problems between the city and the port authority were exacerbated with the election of 2003? Your report makes some reference to that being a defining moment in this conflict.

Mr. Roger Tassé: Well, yes, I think there were comments.... I understand that when people are in political situations and so on, there are words said that may be heard with a different meaning than was intended. I think there were comments, but this was quickly corrected in the later weeks and months.

I'm referring to Mr. Martin, when he was asked at the convention—or after, I'm not sure—on November 12, what he would do now with the airport; Mr. Miller had been elected and he was against the bridge. And he said they would take their cue from the city.

I think some people thought this would be a very radical change. Mr. Martin was not in the government at the time; he had not taken office. The actions of the federal government before that were not leaning in that direction at all. But it left the impression that Toronto would dictate what the government should do.

This turned out to be not as nuanced as it could have been. There were ministers who intervened later to say that if a party to an agreement decides that it will quit the agreement, surely you expect that party to assume the cost of their decisions. But Mr. Miller was not prepared at all to do that.

• (1720)

The Chair: Mr. Zed.

Mr. Paul Zed: I want to say that it's a real honour to have Mr. Tassé before our committee.

As the Canadian Bar representative, I had the great privilege of working with Mr. Tassé in 1988, when we presented to the Mulroney commission on ethics—the Holtmann commission on lobbying. It is really a great privilege to have you here.

Mr. Tassé, since you've been involved with this for some period of time now, would you comment on why no compensation was paid to the only air carrier at the facility at the time the contract was cancelled, and why compensation was paid to another party when all they had was a business plan? I'm specifically talking about the harm that Air Canada might have received. Wouldn't it be logical that some compensation would be due and owed them because they were an operating airline at the time? I noticed that Deluce and Porter received some financial incentives.

I wonder if you would comment on that.

Mr. Roger Tassé: I don't think there's much I can say. While they had a relationship with the TPA, they were not using it very much. I don't know what their claim would have looked like, but I've not heard that there were any claims.

I met with the president of the airline, and this was not raised. He was complaining about something else.

Mr. Paul Zed: I'm offering up three minutes to Mr. Volpé.

The Chair: Mr. Volpé has three minutes.

Hon. Joseph Volpe: Mr. Tassé, thank you very much for being so forthright. Let me provide for comment some other observations.

I think in your study you found that the City of Toronto never passed a motion rescinding the previous three decisions to build a bridge. There was a resolution to ask the Government of Canada to not build the bridge if a certain series of conditions were met. It's important to know how you read that.

Secondly, I think you were asked about whether permits were available or not. Would you clarify for us whether in fact you saw that the permits were released in the month of January and whether they were available before the month of January? That is, the allegation has often been made that they were issued—I'm talking about the water permits, and so on—only after the election, to spite certain people, but they were available and they had not been released, and the Government of Canada had no legal authority to withhold the permits that had been provided by DFO.

Then, thirdly, I wonder if you could comment, in the very brief time that you have, because you have been so forthright with my colleague Mr. Zed, about the fact that Air Canada wasn't part of the legal action and that's why they didn't get any compensation, that in fact the Government of Canada had said it would take its cue from city council, and city council did not say, "Please cancel the bridge", because it was a party to the signature that went on the contract to build the bridge, and therefore, they didn't want to be liable to a legal suit. That's the reason that doesn't come out very often.

So I compliment you on your quick response when those who were partisan responded so negatively to your report. They're not normally accustomed to truth and straightforward talk. Distortion and dissembling is a hallmark of some of those councillors who, when they were operating the Toronto Harbour Commission, found themselves in violation of everybody's definition of ethics and law and are the most surprised people in the world because they're not in jail.

So would you also give us an indication of how long those lands were held in a disgraceful manner by the people at city council? That's what led to that marine act, to reorganize the structuring of all those territories.

• (1725)

The Chair: Mr. Tassé, very briefly.

Mr. Roger Tassé: I'm not sure I want to answer.

The Chair: I'm not sure it was a question. It was certainly a statement.

Hon. Joseph Volpe: There was a question. I think I raised it three times. There were three of them.

The Chair: Very briefly, Mr. Tassé, if you want to reply.

Mr. Roger Tassé: On the question of the cancellation of the decisions, I have not seen anything that shows they had cancelled their previous decisions. Their decisions remain. There were three decisions that remain. That's why, in effect, when—

I'm sorry...?

Hon. Joseph Volpe: I wasn't sure if I caught that right. You said there was no evidence that the City of Toronto rescinded its—

Mr. Roger Tassé: I have not seen anything in the documents I have seen—

Hon. Joseph Volpe: They didn't rescind their decision to actually build the bridge?

Mr. Roger Tassé: —that they had rescinded the decision, the earlier decision.

Hon. Joseph Volpe: Oh my gosh, Ms. Chow is going to be shocked.

The Chair: Maybe I'll go to Mr. Wallace for one brief last question, because we do have a little bit of committee business.

Mr. Mike Wallace: I just want to let Mr. Volpe know that I'm just down the road in Burlington, so I'm not that far and I'm familiar with the issues. I'm more familiar, to be frank with you, with the Hamilton Port Authority, but I was following what was happening down the street from me.

My question is very brief.

One of the points was that maybe the competency of the new port authority, since it changed from commissioners—I don't even know what it was before—to the port authority... There was some suggestion that the competency wasn't there for them to handle it.

I know part of your review was on governance, in a sense. I would like to know, just for my information, based on your review, regarding the model that is set out in the Canada Marine Act in terms of governance with port authorities and their abilities to make decisions, is it sufficient, or are there other issues that we should be looking at in terms of where a port authority should go in terms of governance issues?

Mr. Roger Tassé: My own impression was that certainly the Canada Marine Act was an improvement on the harbour commissioners act—a great improvement. But for example, I'm not persuaded that although it emerges from good intentions, there be user groups for the appointment of directors. There are four groups—the users, the operators, the consumers. I'm not so sure that this is really working. I think there have been some problems in identifying people to serve on these committees. But overall I think it's working well.

There are some changes. For example, in the case of this authority, the TPA, I have suggested that perhaps some thought should be given to having the airport out of that, so that people could see where the airport is going, and there should be annual reports. There should be an increase in transparency, in other words.

Aside from that, I'm satisfied. I have not had time to really look at this legislation, which goes on and on. I look at it for my purposes only and for the purpose of my mandate, which was to look at the TPA, not to look at the City of Toronto.

• (1730)

The Chair: Thank you, Mr. Tassé. We do appreciate your candidness here.

Just before we adjourn, Mr. Bélanger asked about when we return.

On Monday, April 16, we deal with Mr. Bell's rail safety. On Wednesday, April 18, subject to the motion that is purported to be coming ahead, we're going to do rail safety. On Monday, April 23, we'll have witnesses to Bill C-6 or rail safety, subject to the number of witnesses who come out. On the 25th we're back to witnesses on

Bill C-6, with department officials, if we're at that point. And then we'll move into clause-by-clause.

The meeting is adjourned.

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