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Chair

Mr. Merv Tweed

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Standing Committee on Transport, Infrastructure and Communities

Wednesday, April 25, 2007

• (1535)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number 46.

Pursuant to Standing Order 108(2), this is a study of rail safety.

Joining us today from Canadian National, we have Keith Creel, Peter Marshall, and Jim Vena.

Gentlemen, the process is basically that you have an opening statement and then we'll start with questions and answers from around the table. I'm not sure who is going to take the lead.

Mr. Creel? Welcome, and I would ask you to begin.

Mr. Keith E. Creel (Senior Vice-President, Eastern Region, Canadian National): Thank you, Mr. Chairman. We appreciate the opportunity to meet with your committee today. We apologize that we were not able to meet with the committee sooner, but we trust you understand the challenges that a recent strike put on our operations.

I want to start by stating that safety is extremely important to us at CN. We welcome the chance to give you an overview of the measures we undertake to ensure that we do run a safe railway. I know that most of you are familiar with CN; however, given some of the information that has been circulating recently, I want to take a few minutes to make a few key points about our company.

CN was privatized in November 1995. In the intervening years, CN has acquired a number of railways in both Canada and the United States, including the BCRC, the Illinois Central, and the Wisconsin Central. We are a widely held company, with approximately 60% of our shares currently held by Canadian-based shareholders. Our chairman and the majority of our board are also Canadian. Our CEO, Mr. Hunter Harrison, is American and works out of our head office in Montreal. Our operations centre for North America is located in Edmonton, Alberta.

Safety is one of the five principles that guide CN's business, together with service, cost control, asset utilization, and people. They are the constants in our planning and operating decisions. They are both the business and the cultural context of this company. We're never satisfied with our safety record. I am, however, pleased to report that CN's Transportation Safety Board, or TSB, main track accident ratio decreased by 30% in 2006—110 in 2005, reduced to 75 in 2006.

Overall, when we include yards as well as main track, we experienced an 18% decrease. We also improved significantly with regard to the severity of the accidents. Half of these main-track accidents involved only one or two cars. This improvement had a dramatic effect on our bottom line as well, because derailments are expensive. In 2006, our derailment-related costs plummeted from \$91 million to \$48 million, as compared to the previous year. In addition, and most importantly, employee injuries in 2006 were down by 25%, which also represents a very significant improvement.

While there have been fluctuations from year to year and from quarter to quarter—for instance, there's no question that 2005 was not a very good year for CN—the trend line shows a clear improvement in CN's safety performance.

Our safety program is based on three pillars: people, process, and technology. The first pillar of CN's safety program is focused on people initiatives. These are programs aimed at transforming the way people work in developing a safety culture through training involvement, communications coaching, and recognition. An example of this is the introduction in 2006 of our employee performance scorecard. This is a system that ensures each employee's performance is graded and that he or she meets with his or her immediate supervisor at year-end and reviews performance as it relates to safety and other measures. This provides an opportunity for a two-way discussion; it provides an opportunity to identify and discuss together any areas of concern.

The second pillar is process. The key area here includes trend analysis, safety auditing, risk assessments, and contractor safety. Trend analysis allows us to identify top causes of accidents so that resources can be mobilized in the most effective and focused manner possible. Audits and efficiency tests are performed across our system by supervisors and audit teams. More than 300 efficiency tests are conducted each day across the CN system.

The third pillar of our safety program consists of technology initiatives where CN takes full advantage of technology to reduce risk. On the engineering side, we focus on rail flaw detection, track geometry testing, and slide and washout detectors. Ultrasonic rail testing has increased by over 60% over the past four years to about 120,000 miles per year, which means we inspect our core route four to ten times per year. This is much higher than the minimum regulatory requirement, which is once per year. Track geometry testing has also increased, and we are acquiring a new \$5-million track geometry test car to further increase testing. We also use a wide range of state-of-the-art technology on the mechanical side of our business, which includes hot bearing detectors, hot wheel detectors, dragging equipment detectors, cold wheel detectors, wheel impact load detectors, and wheel profile detectors.

CN has one of the highest densities of these detectors of any railway in North America. For example, across North America, the six major railways have about 75 wheel impact load detectors. CN alone has 30 of these 75. All detectors are connected to a central location that monitors the data continuously on a 24-hour, seven-day-a-week, basis and enables us to spot developing trends and take proactive actions before incidents occur.

CN is also an industry leader in the safe handling of dangerous goods. In 2006, we hired one of the leading experts in North America to head up our department. This has led to the establishment of 11 new dangerous goods officer positions across our system who are fully trained and outfitted to respond to any dangerous goods situation.

We have also taken the initiative in setting up many joint exercises with local and provincial police, fire, environmental, and other responders.

The rail business is extremely capital intensive. This year CN's capital investments are increasing to \$1.6 billion. About half of this investment goes toward track safety, with the replacement of rail, ties, bridges, and other items. We've been making this scale of investment in our system year after year to ensure that our plant is in top condition.

While we can make these investments because we want to protect our employees and the public at large, there is no question that at the end of the day they are good business as well. Operating a safe railway ensures that we can serve our customers efficiently, protect their products, keep our systems fluid to avoid service disruptions, and at the same time it saves the company and our shareholders a great deal of money. Starting at the top, our entire company is dedicated to running a safe railway.

Yes, absolutely, we've had some very high-profile derailments, accidents that understandably have raised public concern. However, overall, our record has been good, and the trend lines we'll share with you today indicate it's headed in the right direction.

We understand and appreciate your interest in these issues, and we'll be pleased to answer your questions.

The Chair: Thank you.

Mr. Bell.

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

Gentlemen, thank you for coming. As you can appreciate, when this committee was formed, one of our prime goals was safety in marine, air, and rail. We were aware of problems that were developing in terms of an increase in the number of derailments in 2005. The minister at that time under the Liberal government, Jean Lapierre, as a result of the spike of incidents that you acknowledged in 2005, Mr. Creel, ordered two studies. One was the phase one study, which was the targeted inspection of your operations in terms of the details of the safety incidents. The second was phase two, which was the audit of the safety management system you had implemented to determine, as you mentioned, the difference between employees and process.

In the concerns I have in phase one—and I'll go through the questions and you can take note and then decide who wishes to respond. A lot of my questions will be related to western Canada, so, Mr. Marshall, it may be more appropriate for you to respond.

On page 6 of the phase one report it refers to the contributing factors to your main-line derailments. It talks about two of the major contributing factors having been track and equipment. It says, for example, that 37% of the main-line track derailments were identified with equipment being the contributing factor. This is where CN is both the track owner and the train operator. It also refers to track conditions as being the contributing factor in 27% of the derailments listed.

When we get into page 14, a little farther up, and then page 16, we're talking about two of the issues relating to equipment. One is on page 14; it talks about freight cars. They're talking about a defect rate of 20.6% of a little over 3,000 freight cars that were inspected. They talk about a variety of things, but some of those are defective breaks, break issues that create additional risk.

The other issue on page 16 refers to locomotives, and 53.9%, almost 54%, of the 232 locomotives again had safety defect rates assigned between 32% and 68.9%—again, misaligned break shoes, breaks being head worn, excessive piston break travel. They're not all extremely serious, but what concerns me in having read the report is that even with the significant number of what might be called relatively minor issues, it indicates perhaps a lack of attention overall. If the little things aren't being attended to, then it reflects that likely the big things aren't being attended to.

The other issue that was mentioned there, on page 17, was the consists. In the presentation you provided for us today, in the background material you talked about wanting to work with local authorities, municipal authorities, hazmat teams, and the fire and police services that have to respond when there is a serious derailment. One of the issues is there's a 14% violation rate in having accurate or inaccurate consists. The consist, as I understand it in this context, is saying what's in the train and where it is in the train, so that if there is a derailment, local authorities are able to determine are there particular products they should be concerned about, and where are they located within the train. And we've got a 14% inaccuracy list, or incomplete list. That's worrying to me, for example, as a former mayor for a community in north Vancouver, where we have hazardous goods going through our community very close to residential properties on a daily basis.

When we go into phase two, which is the safety management systems, there were a number of things that were of concern to me. You're familiar with them. I've heard you talk about in your presentation the commitment to safety that you have as a company. But it talks here about a disconnect between senior management and front-line supervisors and employees in understanding management's commitment to safety. So there was the commitment, there was the talk being made, but the question is whether that was being walked—if you want to call it that—at a track level. The responsibility of the management of a company if they have policies, if they have goals, is to ensure that they're not just articulated but in fact are being enacted and being followed through by employees. It talks about the need for a comprehensive review of safety performance by senior management, and one that's not primarily based on American standards, but Canadian standards.

• (1540)

It says here:

...it was found that the evaluation of safety performance at the senior management levels is heavily focused on accidents that meet the United States Federal Railway Administration (FRA) reportable accident criteria. The FRA accident numbers only represent a small portion of the actual number of CN accidents in Canada.

That reflects back onto the evaluation of the standard of the monetary level, which I think in the U.S. is \$7,700, so items that are below that are not reported, yet they can still be significant as to safety. It could be the handles, the gradings the workers stand on, the locomotives. So I have concerns about that.

It talks about how data from day-to-day operational monitoring systems could be used more frequently to trigger formal risk assessments. What they suggest is that the data is being gathered but it's not being used to trigger the required assessments that should be ongoing. It talks about how more thorough tracking of details is necessary to improve the management of risk mitigation strategies. Again, it says, "the audit team could not find documented details describing the risk mitigation controls". This is contrary to the intent of CN's corrective action, safety and measurement plan—SMS plan. It also says, "The effectiveness of CN's safety culture improvement initiatives needs to be reviewed".

Again, it's the question of the focus on training, involvement, communications, and coaching were reported as not being effectively implemented. This was raised most predominantly in the mechanical services department, and we have written testimony

and information contained in these reports that indicate that this is a concern of employees being penalized in fact for reporting injuries, for example, that they may have as a result of equipment that is not up to level—

• (1545)

The Chair: I'm just going to interrupt you. Your time is almost up. If you have a question....

Mr. Don Bell: I will get to it, thank you.

The report was damning in that what appears to happen is that there has been the application of water grade railways, flat level railways, basically, like you may have in the U.S. and in parts of Canada, and I'm speaking now from British Columbia, being applied to B.C., where we have some of the most significant grades and some of the tightest curves in North America, and that when you took over BC Rail, there were locomotives that, for example, had dynamic braking, which is a back-up system for braking and could have resulted in saving, perhaps, the lives of those two gentlemen who died in Lillooet, yet those engines were either sold and moved away or else the dynamic braking was taken off or deactivated.

I would like to know, where did those engines go and why were they taken out of the B.C. market in particular? Is it true that in fact employees, in your understanding, feel intimidated when reporting injuries and in fact working within the safety culture you want to create?

Thank you.

Mr. Peter Marshall (Senior Vice-President, Western Region, Canadian National): Thank you, Mr. Bell.

I think your questions could be answered by any three of us on the panel, to be honest with you. We're all in the front-line operating roles. The phase one and phase two audits were effectively a cross-section of the Canadian system. So any one of us could answer, and I think we'll probably all end up addressing some of the questions.

I tried to take quick notes here, as best I could, so hopefully we'll cover the points off.

I think the safety management system exercise, phase one, was very comprehensive, and we worked with the regulators. Through the course of the audit we exchanged views and notes, and at the end there was a draft report put together. This is true for phase one and phase two. I believe that many of our thoughts and ideas were incorporated. I wouldn't say they were all incorporated.

Some of the interpretation and the judgment I think is from their view, and that's fine. We learned from that, and we continue to work with the regulators on all the aspects you've talked about, and I will address some of them here individually.

I think it's important to recognize that we are governed by Transport Canada and the Transportation Safety Board in Canada. Yes, we have operations on both sides of the border, and yes, it's a different regulator in the U.S., but we are governed by very good regulations here in Canada and we work with the regulators on a daily basis. There's an extremely good exchange between the railways, not just CN, but CP as well, and the regulators.

In regard to some of the references you noted about the number of cars being defective or the number of locomotives, I think a good analogy might be a vehicle. You buy a brand-new car and in a few weeks you might have a bulb burned out and that's considered a defect in the regulations. Things like brakes—we could have a brake shoe that needs to be replaced on 100 cars. That doesn't make the train defective, but the brake shoe needs to be replaced, and we recognize that. And we have, again, processes to address the defect points. On the locomotives—they have some systems in there—the microwave could be not working, and that is considered to be a defect. We adhere to the regulations. Yes, there are things that need to be repaired and fixed as they go from point A to point B, and we have a regular inspection process for that.

We have good processes and good technology that support the safety items you've raise, and I think, again, it's an ongoing exercise. As Mr. Creel pointed out, nothing is more important to us than safety. We work very hard on the safety role and we are disturbed when we have safety incidents. It is a service disruption, it is an injury to an individual, it is a disruption to the community. These are things that take us away from what we do best, and that's to move traffic efficiently and for our customers. So safety is something that we're not going to back away from, that we need to continue to improve, and that's in everybody's interests—ourselves, the unions, the communities. As Mr. Creel pointed out, we spend a lot of time with communities; we spend a lot of time with the unions.

In regard to the comment about the disconnect, I think in phase two we have an improving and a very solid base for involvement with employees. We have local health and safety committees, we have regional health and safety committees. The three of us today, actually this morning, came from our policy, health, and safety committee meeting, which the three of us sit on with union leaders from across the country. And we address issues such as these. We talk about the safety audit, the SMS audit, phase one and phase two. Those are things that are important to us as an organization, not just management, not just union, but us collectively.

As Mr. Creel pointed out, we introduced an employee performance scorecard last year, which is an opportunity for us to review with every individual employee—not just management employees, but every individual employee on the railroad—what their contribution is relative to their craft, whether they're a locomotive engineer or a clerk or a conductor. We take them through areas of safety, productivity, attendance, and we have a good frank exchange about things they're doing well, and the majority of them are doing an outstanding job. And there are exchanges of information, and fact-based exchanges where we say we might need to improve there, and we ask for ideas.

●(1550)

So I believe there is a very strong penetration of communication to the individual employee. Can we do better? We can always do better, and we encourage contributions and ideas from everybody in the organization.

Just quickly on the FRA versus TSB in phase two, the Federal Railroad Administration, FRA, in the United States is the governing body. We keep statistics for both the Transportation Safety Board, TSB, and FRA. The reason we keep FRA is that we're a North American company, and we need to be able to compare our performance against North American railroads. The TSB criteria are different. They're actually more stringent in many cases. We keep that data as well. Mr. Creel referred to some of the Transportation Safety Board statistics, which improved from 2005 to 2006.

We could exchange a lot of information, a lot of factual information, that would be helpful. We will try to do our best today to answer those questions for you.

I didn't catch all the notes, and maybe Keith or Jim Vena can answer.

The Chair: I'm going to Monsieur Laframboise. We have a time factor here.

Monsieur Laframboise.

[*Translation*]

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

[*English*]

The Chair: I'm going to give you a signal of one minute, and I'll be fair to balance out how we started, but I'm going to tighten it up a bit.

Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: You sent us your brief on rail safety. You're making a nice speech; you're paid to come and tell us that things are going better.

I'll tell you from the outset that I put the question to the representative from the Transportation Safety Board, who appeared before our committee on SMS in the air industry. I asked him directly whether he had observed a reduction in the number of accidents since SMS had been implemented in the rail industry. He was unable to confirm that for me. It is too soon for the Transportation Safety Board to confirm that the Safety Management System has a direct effect on accident reduction.

I'm quite willing for you to tell me that things are going better and that you are performing well and have a business culture. The problem is that, in Quebec, in Montmagny, among other places—and that wasn't in 2005, because you had an increase in the number of accidents in 2005—in 2004 and 2007, there were derailments. You're telling us today that these events were given extensive media coverage. Following the 2007 derailment, you could see a tanker a few feet away from a house. I can understand why it got media coverage. These weren't minor derailments that occurred in Montmagny.

I wonder how you can manage this situation. You know that the mayor came and told us about the mood in his community: people in Montmagny no longer believe Canadian National. There was a major accident in 2004. You said that everything would be fine, and another major accident occurred in 2007. A psychosis has arisen in the community over rail transport. I'm willing for you to talk to us as you are doing today, but you've understood that you have a confidence problem in the communities where there have been repeated accidents, like Montmagny. The population doesn't believe that your safety, equipment maintenance system, or whatever, is effective after two accidents: in 2004 and 2007. These weren't minor derailments: we're talking about 26 cars in 2004 and some 15 in 2007. Those aren't minor derailments.

I'd like you to try today to give me back, to give the community of Montmagny back a feeling of safety.

• (1555)

[English]

Mr. Peter Marshall: Again, I think we all need to respond.

You're very correct that we have had a number of high-profile incidents, and we are not happy about these. They are very disconcerting to us.

One way we will rebuild the confidence is to continue to invest in our infrastructure and our people, and continue to demand that we, as an organization, get to a better place. We feel good that 2006 was a good start on a journey.

Regarding Montmagny, while I'm not from eastern Canada, I was aware of those incidents, though I'm in the west, because any incident in the system at CN is reviewed and discussed. And when Montmagny came up a second time, we stood back and said, is there something systemic here? I think the particular issues in Montmagny—which I think Mr. Vena should probably respond to because it's his territory—were different issues. That doesn't mean they weren't high-profile ones, and we're not happy about that.

But again, I think what we need to do is focus on the future and focus on what we are doing today. The results we have had in the last 12 months show us we are on the right track to improving that trend. And we need to continue that, because we need to gain the confidence of the communities and the media and our constituents out there, because this is critically important to us.

Jim, do you want to respond?

Mr. Jim Vena (Vice-President, Operations, Eastern Region, Canadian National): Yes, you bet.

Just bear with me for a second here, as I take you back. You talked about the confidence of the people who live in and around Montmagny and that area—and I met with the mayor. Any time we have an incident happen, it's an issue. As far as we're concerned at CN, if there's one incident, we have to find out what happened. We have to find out if we have to do something differently than we're doing today, to make sure.

We were concerned, just as other people were, to make sure that the residents and people in and around Montmagny understood what was happening. That's why I personally went with a small group of people. We had people who work on the track, we had people who work with cars, and we had the public affairs people with us to review with the mayor, and a group of people he had invited, what we were going to do about it.

We put in some interim steps right away, I think on January 11, a few days after the derailment, to make sure we took it step by step before we returned service there at the normal pace. So what we did was to review it.

Do we have a cause? Yes. It's from our own internal investigation, but we're waiting for the TSB to give the final review of the accident and tell us what happened.

But I think we took it one step at a time to make sure we did the right things.

• (1600)

[Translation]

Mr. Mario Laframboise: If the community asked you, as the mayor asked us here, in committee, to limit train speeds to 40 miles an hour until the final report of the Transport Safety Board was made public, would you agree to do that? Would you be prepared to meet that request in order to reassure the community, precisely because there have been repeated accidents, one in 2004 and another in 2007? Would you agree to wait for the final report of the Transportation Safety Board before increasing speeds from 40 to 60 miles an hour? Could you keep it at 40 miles an hour until the report is made public and the community can feel safe because the real causes of the January 2007 accident have been explained to it? Would you be prepared to accept that recommendation from our committee?

[English]

Mr. Keith E. Creel: So the question is whether we are prepared to allow the speed to stay at 40 miles an hour until we get the findings from the TSB report. That's certainly something we can take under advisement.

First and foremost, we feel strongly that speed had nothing to do with that derailment. We understand the sensitivities of the public. We understand the sensitivities of the citizens of Montmagny. Mr. Vena was not here at the last derailment at Montmagny. I was here. I personally went to where we had the derailment, east of the bridge. We had an issue with a truck component in a car that derailed before the bridge, and then the train dragged the car out onto the bridge. So I was there at that derailment.

This derailment occurred in January. I too got on a plane, and I was there and met with the mayor. I was part of the fact finding and got to the cause of that derailment.

So we feel strongly that speed was not an issue. The facts indicate, when you look at the report, and I have a copy of a report that has been developed by an independent research firm and submitted to Transport Canada as well as TDG—Transys Research. The science says—and this can get technical—that speed has nothing to do with the lateral forces of train derailments. Speed has something to do with longitudinal forces as far as how far they travel when they do derail, but side to side, typically, is not an issue. That being said, we will take it under advisement, and we will strongly consider keeping the speed at 40 miles an hour.

We have been very cautious. We have gone in and eliminated every potential issue. When I went to the first derailment, and when I went back the second time, I myself, being concerned, just as the citizens are concerned, asked what I could have done to prevent this derailment. The answer was that because of the cause, there was nothing I could do. However, the thing I learned and took away from that was that the cause was a defect in the switch we derailed on in January. Behind the bolt hole there was a crack in the steel that ultrasonic testing could not detect, that the visual eye could not detect, unless we were to take the entire track infrastructure apart to inspect it. That was the cause.

So if I ask myself if three years ago I missed an opportunity to prevent this derailment, the thing I walk away with is this: Did we need the track there, did we need the switch there, in the first place? The answer is no. We had a switch in Montmagny that was put there some years ago for a business reason. It was a team track where you typically transfer goods to a particular customer. But the reality is that we do not use that team track anymore, other than for our own equipment, sometimes. So we took the switch out of service. We took it out completely. The switch is gone. So we have mitigated the likelihood that it's going to happen again.

We've kept the speed. At this point, we will take it under advisement, and we'll get back to you quickly about whether we're willing to.... I can tell you now that my gut reaction is that we will keep that speed. It all depends, though. I don't know how long TSB is going to take to come back with its findings. I don't know if it's going to be a year or if it's going to be two years. But we will take that request under advisement.

[Translation]

Mr. Mario Laframboise: As a result of the speed you were travelling at, one car stopped a few centimetres away from a house and nearly crashed into it. Don't come and tell me that speed isn't important in Montmagny. People think the train goes too fast. Had it not been for the speed of that car, the accident would have been much less extensive and no one would have been afraid of losing his house.

You say you've conducted a study, that you paid for it yourselves. However, for politicians and the public, the Transport Safety Board is the neutral agency that is supposed to make a recommendation following an accident. Be aware that, until that report is made public, the population will not trust what you say. I hope you understand that. That's what's at the heart of the notion of safety. If you can't restore the public's trust, well, try to operate in another way.

The public is asking you to limit your speed to 40 km an hour, as you are currently doing. You recently increased it to 40 km an hour.

Until the Transportation Safety Board's report has been made public, the public is asking you to stay at 40 km/hr, which will make everyone feel safe. Then we'll work with the Transportation Safety Board. You should understand the syndrome you've caused in the Montmagny community.

• (1605)

[English]

Mr. Keith E. Creel: We certainly understand your concerns, and we will take the request under advisement and keep the speed at 20 miles an hour until such time as the report is made public.

The Chair: Mr. Julian.

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

I come from British Columbia, gentlemen, and I appreciate your coming here today. People in B.C. obviously are very concerned about the safety record of CN.

I saw the report you tabled with us and I listened attentively to your presentation, but it seems to me it's very much what we've heard each time there's been a major accident, each time there's been environmental devastation, each time there's been loss of life.

I want to start by asking, do you not admit that there is a real perception among the public, and I'd say particularly in British Columbia, that safety is not a concern at CN and that it's going to take more than public relations to address what is a very legitimate public concern when they see loss of life and environmental devastation?

Mr. Peter Marshall: We understand there is a perception in B.C. and in other locations, and we don't take that lightly. We want people to have confidence in the railroad. Again, I have to express our view that we take this extremely seriously and we are working very hard to change the perception and change the results. We don't feel it's of value to debate in the media. We feel it's important to work with facts and continue to invest in our business through people, processes, and technology, and demonstrate through results that we are making a difference.

I appreciate that 2005 is not that long ago; in the minds of some of us it feels like yesterday. But we have made some very solid progress, in B.C. specifically. I work in Edmonton but look after western Canada. I spend a lot of personal time in British Columbia and speak to a lot of communities, and I get the concerned citizens, just like Monsieur Laframboise is speaking about Montmagny. We understand this. We don't take it lightly, and we are working very hard to change the perception and change the results. In B.C., the results are changing.

There has been some testimony before the committee that refers to the former BC Rail and CN. There is lots of documentation that we have examined and been through. I think it's important to recognize that the former BC Rail was a good railway, yes, but it had its share of accidents too. Until it became part of the CN system it did not have to report in the same fashion as a national railway does. So the statistics we see from BC Rail are not all that public. We've had to recreate some of the statistics to make sure we had an apples-to-apples comparison. We did the best we could.

As an example, on an FRA basis, because we didn't have TSB data from BC Rail, we've reduced the amount of FRA accidents in BC Rail between 2003 and 2005 by almost two-thirds. Those are things that don't get communicated. We're not going to go to the media and put that in play. We want to spend time here with the committee. We spend time with the Railway Safety Act people. I will be with them tomorrow in Edmonton. Mr. Vena has already spoken to the committee. We have, again, ongoing dialogues with the TSB, with Transport Canada. They spent a lot of time out west, as we have incorporated and merged with BC Rail, the Savage railway, Mackenzie Northern, and two other short lines, one in 2006 and one in the beginning of the year. We spend a lot of time, and we take to heart what they are feeding back to us.

Again, I understand there is a perception out there. And I would not disagree—none of us would disagree—that we have work to do on the perception side. The way to get through it is with results.

• (1610)

Mr. Peter Julian: We have the increasing accident rate, with main-line track derailments up in 2005, a bit of a plateau in 2006, but now a spike up in 2007. That is a matter of legitimate concern. Mr. Laframboise talked about accidents in Montmagny. There have been accidents in British Columbia, with loss of life. There is a generalized concern that is matched by the facts as well.

We have Mr. Gordon Rhodes, who came forward and said that as an employee he thought that previously in CN, safety was number one, and now he sees safety as being the number four priority. We have the Transport Canada report that says many employees feel pressured with productivity, workload, and fear of discipline to get the job done, and that compromises safe railway operation.

The facts I think are very clear. I guess what we're struggling with and what we want to hear from you is how senior management is changing its practices. How is it changing that disconnect, where people feel pressured and feel that safety is not a priority? And this comes from within the railway itself. Do you admit there have been mistakes at CN, perhaps in laying off too many staff, perhaps not having enough personnel to get the job done? How is senior management changing its approach to managing the railway so Canadians can feel safer?

Mr. Peter Marshall: I understand that Mr. Rhodes has provided testimony here, and I recognize the SMS, the safety management system. You refer to them as facts. I think that is documentation. People are entitled to their opinions, and the collection and conclusions that Transport Canada has...again, we respect that.

We're not happy about how we started off in 2007. Unfortunately, we've had the most severe weather conditions that we have

experienced in many, many years, and weather has an impact on the operation.

What have we done as managers? As a senior leadership team, we spend a significant amount of time on safety. It's built into our goals and objectives at the highest levels. It is, as Mr. Creel pointed out, one of the five core principles, and we do not go into the business without thinking about safety, without looking at it. We are confident, again, that what we are doing today is a lot better than what we were doing last year, and two years ago, and three years ago, and I think the statistics over time will show that. Since privatization, there has been a significant amount of improvement in rail safety at CN in terms of accidents and personal injuries.

I'm going to repeat myself here, but on the issue of people feeling pressured for productivity, etc., we set policy and we have standards—safety standards, I'm referring to. We have expectations that no job is done without it being done safely. That is an expectation. That's in our rule book. It is absolute. You do not do anything on the railroad unless you know it's going to be a safe operation. We need to continue to drive that culture, and again, we've been seeing improvements.

Mr. Peter Julian: But driving the culture means assuring that there is personnel in place and that the infrastructure is there for them to do the job. It's not enough for senior management to say you have to take safety first, and then cut back on the number of staff positions and cut back on the investment, change locomotives, put them into inappropriate situations. All those elements are decisions that senior management makes that make the difference between something that is simply put forward as a precept and something that is actually administratively carried on right throughout the organization.

You understand what I'm getting at?

• (1615)

Mr. Peter Marshall: I do, and I think, again, we've invested a significant amount of money and time into the organization. I don't accept that a reduction of employees has a direct feed on safety.

The BC Rail transaction, which you referred to a few times, was a merger of companies. There were obviously some redundancies in some administrative roles. We size the railroad. We look at the railroad, first and foremost, from a safety perspective and we build from there. I think it's inappropriate to make a cause and effect on that basis only.

Mr. Peter Julian: What I'm saying is senior management has to change its approach to running the railway. It seems to me, and I'll put this question to you, that in 2006 the light was on, on CN operations. You had the audits. You had a lot of conversation and discussion around here, at the transport committee and otherwise, and that seemed to have made a difference, at least temporarily, in the safety of the operations.

Now we're seeing, in 2007, regardless of whether you attribute it to weather conditions or not, a degradation in the safety standards, and we're seeing the results of that.

Mr. Keith E. Creel: If I could elaborate for just a minute, you have to take in context, number one, that the improvement in 2006 versus 2005 represented about a 30% reduction in main-track accidents. Granted, if you compare year-to-date 2007 numbers versus 2006 numbers, you would think, if you don't understand the data, that there may be an issue.

The reality is 2006's numbers were phenomenal numbers. If you compare 2007's numbers to 2004 and 2005, they are 40% better. In 2006 we had a very mild winter, and as much as I understand your comments about weather, weather plays a huge impact when it comes to steel wheels, steel rails. If we have extremely adverse weather conditions, the likelihood of an incident occurring when it comes to rail failure increases. We can't change the metallurgical components of steel; that's what happens.

If you look at the trend now, from March 1 through to yesterday, and I'll tell you through the first quarter, if we compare 2006—keeping in mind that was a phenomenal quarter—the improvements exceeded much more than 30%. Annually, we improved 30%.

If I go back and look at the first quarter of 2006, we had a total of 67 TSB accidents on the CN railway compared to 76 in 2007, and the gap is growing closer. Today, through April 24 or 25, we've had 85 in 2006 versus 89 in 2007. As I've stated before, 2007's numbers are still a 40% improvement over 2004 and 2005.

While if you don't understand the data, it could raise a concern—and you may think the focus is not there that was in 2006—you have to take into account that 2006, number one, was phenomenal. The year 2006 had a very admirable winter in that we had temperatures not even coming close to what we just experienced this year. So the trend or the concern is going to dissipate; the momentum is going to continue.

The focus is still there. The numbers? We still feel very confident that 2007 will generate the same types of improvements year over year versus 2006. It's simply not fair to take a look at the first three months of 2006—when there are so many differences between 2006 and 2007—and make your assessment based on just that.

Mr. Peter Julian: What I'm saying is that Canadians are quite rightfully concerned because they see the derailment rate going up. You've said you're taking care of this issue, but the evidence suggests otherwise.

If you come back and say there are mitigating circumstances for this year, you understand that it strains credibility. When Canadians are already concerned about the past and we're being told that essentially you're taking care of the safety of your operations, and then we see this spiking up in 2007.... Do you understand where I'm coming from?

Mr. Keith E. Creel: No, no, I understand.

Mr. Peter Julian: Canadians have legitimate concerns. I don't hear from you that you're changing how senior management, as identified in the audit report, has changed its practices to meet those concerns.

Mr. Keith E. Creel: I understand the concerns and perceptions, but I'm very confident that when Canadians look at the facts they understand that the severe winter weather we just went through, 100-year type of weather, would have an impact on some of the circumstances that caused some of these derailments.

• (1620)

The Chair: Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Gentlemen, with respect, there are very few things that Mr. Julian and I agree on, but I would agree with him, speaking as a British Columbian, that the railway industry, and, if I might be so bold as to say, CN itself, has lost the trust of Canadians when it comes to safety. That's a perception out here. Quite frankly, so far the picture that's been painted by the witnesses we've had confirms that picture.

One of you, I believe, implied that railway safety in Canada is better than it would be in the United States. Is that correct?

Mr. Keith E. Creel: Absolutely.

Mr. Ed Fast: Why is that? Is that because our standards are higher in Canada?

Mr. Keith E. Creel: They're different. To take the standards of FRA versus the standards of Transport Canada, in some cases—and I've worked on both sides of the border—I would agree, Transport Canada's regulations may be superior. Likewise, if I go to the FRA and I look at some pieces of the FRA, they're superior standards.

I can give you one specific issue: train brakes. We talk a lot about train brakes, the braking effort of the train. In Canada, the regulations allow a train to leave the initial terminal with 95% working brakes. So that means 5% of that train can have defective brakes and still not impact the ability of that train, under the law, to be able to leave and safely operate across the Canadian region and generate these train accident numbers, which are incrementally better than the U.S.

However, the FRA requires 100% effective brakes. So at CN we've applied the most stringent of the standards. In many processes, it's not the lesser of the standard; we take the greater of the standard because we have to operate our trains cross-border.

Mr. Ed Fast: I'm going to challenge you on that. We had testimony from Mr. Rhodes and I believe it was John Holliday on this whole issue of taking bad-ordered trains and putting a defect mark on the train. In some instances, in fact, supervisors would then come along when these supposedly defective trains had been marked and they would take the card off and those trains would be repaired to the American standard, to a lower standard, in fact, so that the trains could continue to run. That's not only reflected in the testimony we had from those two individuals, it's also reflected in phase two of the audit report that was done on CN.

I'm going to just refer to that:

Over 75% of Car Inspectors interviewed from four locations stated that it was not uncommon for a car that had been bad-ordered to have the defect card removed by the supervisor, and the car allowed to continue in service.

That is out of the audit report. You're talking about always trying to apply the higher standard. The report doesn't reflect that. The evidence we've had from two witnesses who are employed by your railway doesn't reflect that.

How do you justify the statement you've just made, that you're always trying to achieve the highest standard?

Mr. Keith E. Creel: With all due respect, the testimony that I've read from the witnesses who have presented to this committee is anecdotal evidence. There are no specific issues, and in fact the testimony that I read stated "they heard of this", "they heard of these things", "they heard of these rumours". If in fact we caught a supervisor doing that, we would take action with that supervisor. We would take exception with that supervisor.

Mr. Ed Fast: But 75% of the car inspectors from four different locations confirmed that, and that is reported in the actual audit that was done. So how do you justify that?

Mr. Keith E. Creel: There is no way to justify it. Number one, we would not accept it, but at the same time, we have no evidence of it other than anecdotal employees in these audits. In a very uncontrolled environment people went out and questioned employees. We're talking about a workforce that has gone through—

Mr. Ed Fast: Are you saying that 75% of those inspectors are wrong?

Mr. Keith E. Creel: Well, 75% of the time or 100% of the time... if we knew that occurred, we would take corrective measures with it. That is not something we would tolerate.

Mr. Ed Fast: I just don't buy that.

Mr. Peter Marshall: The process for car inspection does allow for a car, in a car man's judgment, to be bad-ordered. It could be a handhold. A car man could be walking by the car, he sees it, visually, in his judgment that the handhold..you have to have a two-inch space between the car body and the handhold, so this could be a ladder. A supervisor can come by, or another car man, for that matter, and actually inspect the handhold in a more detailed fashion and find out that in fact it's 2.1 inches and actually meets the standard. He can take the card off.

• (1625)

Mr. Ed Fast: That's not what the audit report says. It says that "when the BO car audit count was high, cars were not repaired to AAR standards in an effort to reduce the defect car count". That tells me you're looking for the lowest standard as opposed to the highest standard.

I want to refer you to something else that's contained in the submission you made to the Railway Safety Act review panel. That's 17 April.

Mr. Peter Marshall: What page is that on, please?

Mr. Ed Fast: This is on page 2, and I'll refer you to two statements.

First of all, in the second paragraph, in the second to last sentence, the statement is, "That is why, at CN, we view safety as every

employee's responsibility, and work diligently to create and improve a culture of safety awareness and safe practices".

Going on to the fourth paragraph, the first sentence says that "CN has always placed the highest priority on safety. Safety is one of the five Core Values of the company."

Yet what I've heard from two witnesses and what I've seen in the audit report seem to indicate that you're willing to accept a lesser standard when it suits you. Unless you're challenging the findings of the audit report, I believe what I'm saying is correct.

Mr. Peter Marshall: We don't view it that way, and this is our approach. This is our philosophy, and this is how we do business.

Mr. Ed Fast: Let me approach it a little differently.

The safety management system, or SMS, is used in the airline industry, in aviation, and apparently it's being applied within the railway system in Canada as well. It's a new level of accountability, a new level of safety that's imposed under existing regulation.

I will go back to the comments made by our witnesses. We asked them to compare the safety environment within CN versus CP. Mr. Rhodes responded, after stating that CP apparently had changed their management style and was finding out that they were much more successful, that:

No, CN has gone in the opposite direction. They're very adversarial. I call it the poisoned work environment, because that's what it is. Nobody wants to go to work there. Everybody's counting the days, the months, and the years until they're gone, until they're out of there. That's not the way it was, and that's not the way it was at B.C. Rail.

So here it's very clear. We're dealing with safety management systems where the front-line employees are supposed to be involved in identifying deficiencies, finding safety defects. And yet the response from the employees is not, hey, we're working together with management here. Instead, they're afraid for their jobs.

In fact, the same witnesses confirmed that they're afraid of getting fired if they identify deficiencies in any of the rolling stock you have.

Mr. Peter Marshall: I have one question about Mr. Rhodes' reference to CP. I'm just not clear on where he would get that experience or information from. I'm not aware of him being a CP employee at any point. But maybe he provided testimony to that effect.

Mr. Ed Fast: Actually, it was also Mr. Holliday who referred to a culture within CN that was not conducive to allowing SMS to be implemented properly. I believe Mr. Holliday himself had worked for a number of different railways over the years.

In fact, Mr. Rhodes had worked for BC Rail before it was taken over by CP. There's a guy with a fair bit of experience who talked about the days when he worked for BC Rail where there was accountability, where the opinions and the concerns of employees were taken at face value and were acted upon. Suddenly there's a new culture imposed upon them by CN that is poisonous, that is working actually counterproductively to what we had hoped would happen under SMS.

Mr. Peter Marshall: I think Mr. Rhodes is entitled to his opinion. I don't share it.

Mr. Jim Vena: The culture we have at CN is to move the traffic in a safe manner. That's the culture we want. And we do not....

I'm not sure, just as Peter said, where the witnesses got their facts and figures. I read their testimony and I'm not sure. I'm not here to debate what their testimony was. But I'll tell you that we're here as a company to move traffic safely. That's why it's one of our five. There is no economic sense for us to run an unsafe railway at CN, absolutely none.

• (1630)

Mr. Ed Fast: So you're challenging the testimony of someone who almost lost his life and whose two friends died in that very same accident.

Mr. Jim Vena: That's not what I said.

Mr. Ed Fast: You're saying you're disagreeing with his opinion.

Mr. Jim Vena: That's not what I said. I said I'm not sure where his testimony came from.

Mr. Ed Fast: Well, it came from experience, Mr. Vena.

The Chair: Mr. Volpe.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): Gentlemen, thanks for coming.

We're talking about two audit reports—one that followed the first one that the previous government initiated, to which you responded, as I understand, and then a subsequent audit, which is the one that Mr. Fast was referring to.

You accepted those findings, as I understand it. Am I right?

Mr. Peter Marshall: I would say—

Hon. Joseph Volpe: Did you get an opportunity to respond to the first one? It was a draft report.

Mr. Peter Marshall: There is a process, and again, it's an ongoing process, an evolution. The safety management system is still a relatively new framework that the industry—

Hon. Joseph Volpe: But you buy into it.

Mr. Peter Marshall: Yes. We're part of the industry, we support it, and we participate.

Hon. Joseph Volpe: You'd comply with it—

Mr. Peter Marshall: Yes.

Hon. Joseph Volpe:—especially since you agreed with the draft report that set it up.

Mr. Peter Marshall: I'm not sure what the question is.

Hon. Joseph Volpe: You accept the safety management system because you were part of setting it up.

Mr. Peter Marshall: Yes, that's true.

Hon. Joseph Volpe: There are a couple of things I find fascinating.

I spoke to one of your representatives a few months ago. The minister, in a televised program, indicated that you as the corporation were preventing him from releasing the audit to which Mr. Fast made reference. Is that true?

Mr. Peter Marshall: No. Absolutely no.

Hon. Joseph Volpe: So you have no problem with that audit being released?

Mr. Peter Marshall: We felt that we had an opportunity, and it was important for our information to be accurately reflected in the audit. We do not—

Hon. Joseph Volpe: You wanted an opportunity to make sure that it was an accurate reflection—

Mr. Peter Marshall: Yes, we don't—

Hon. Joseph Volpe:—of things as your operations dictate they be conducted in order to be profitable and safe.

Mr. Peter Marshall: Exactly. And we do not control the release of the audit, so that's not something that we have any—

Hon. Joseph Volpe: But you're aware that phase one, that draft report, the one you first saw before the audit was conducted, said that over half of a large sampling of CN locomotives had safety defects—over half of them—and that they all had the potential for causing a derailment, injury to a person, or property and environmental damage.

Mr. Peter Marshall: That's one of the reasons we went back and forth on with Transport for the final audit, which we still have some concerns about. But it's their report.

Hon. Joseph Volpe: In that final audit, Mr. Marshall, there is something that's disturbing. In addition to what Mr. Fast said, it also indicated that over 45% of the mechanical employees who were aware of the process didn't believe it to be effective, as safety concerns were not always dealt with on a timely basis. So the question of time and the seriousness with which you dealt with all of those concerns would be very important, I would think.

But as I say, what is really disconcerting is that as of November 2005, the audit team had discovered 99 notice and order items listed that you had not complied with, and 24 of them dated back to 2000. Transport Canada gave you N and Os, and five years later there was no action on them.

• (1635)

Mr. Peter Marshall: I'm sure you're familiar with the notice and order process. There is a process to be followed there. You mentioned time, and safety issues are addressed. The notice and order process might allow that enough time to go.

There are many aspects that I think need to be recognized.

Hon. Joseph Volpe: Mr. Marshall, people around this table—and I guess anybody else who is interested—would say five years is a long time.

One of the orders that CN received was not to have more than 80 cars on a train going through those sections of British Columbia that the three members from British Columbia just pointed out. And yet following the incident of the derailment at Lillooet, witnesses said there were many more than the 80 cars that you had been ordered to limit yourself to.

Mr. Peter Marshall: That was at Lillooet?

Hon. Joseph Volpe: Yes.

Mr. Peter Marshall: There was one car.

Hon. Joseph Volpe: No, I think it was—

Mr. Peter Marshall: I was at Lillooet. There was one car.

Hon. Joseph Volpe: All right. I'll accept your version. I'm just going by—

Mr. Peter Marshall: No, I understand. It's incorrect, and that's probably why we're here: to make sure we have facts on the table. I appreciate that.

Hon. Joseph Volpe: Thanks.

The audit says that it recognizes that you're trying to make an effort.

Mr. Peter Marshall: Yes.

Hon. Joseph Volpe: I want to be balanced. I note, though, that it says in your annual report that your safety, environment, and security committee met only four times during the year.

But the audit says there is a disconnect between senior management, who claim to be committed to safety and who feel that CN has a positive philosophy, and the front-line employees and supervisors who feel safety is often compromised.

Is there a communication problem between your stated intentions and your employees' ability to deliver on that?

Mr. Peter Marshall: I don't believe so. Again, I would—

Hon. Joseph Volpe: Do you think the Transport Canada audit team doesn't know what it's doing? I mean, they're your regulators.

Mr. Peter Marshall: I understand that.

I think we work very hard. I know we work very hard to continue to drive that safety message—

Hon. Joseph Volpe: If we're being tough on you, it's because we want you to project a good image to the public. We'll give you an opportunity to answer.

Mr. Peter Marshall: The committee serves a purpose, and we're here to help you in your pursuit of that purpose.

Hon. Joseph Volpe: You have to explain that one to me.

Mr. Peter Marshall: Do you mean about the communication?

Hon. Joseph Volpe: I mean why there's a disconnect between what you say and what your employees say.

Mr. Keith E. Creel: Let's step back for a second.

This company has gone through a tremendous amount of change. It's not a secret. Certainly we're focused on productivity and delivering service. As a result of the changes since privatization of this company, if we're guilty of any one thing over the previous years—and I'm responsible to a point—we pay for the sins of our predecessors.

This company over the years has had to deal with practices that were at best permissive. So we're attempting to change a workforce and a culture that over the years allowed permissive practices. It's okay to have a book of rules, but if you don't require employees to live up to that book of rules, you effectively have an unsafe environment.

Hon. Joseph Volpe: Is there no penalty for non-compliance?

Mr. Keith E. Creel: No.

Hon. Joseph Volpe: I take from what you're saying to me that prior to privatization this was an accident waiting to happen at least every three days, and that's still the case.

Mr. Keith E. Creel: I can't make that assessment. I can just tell you what I've dealt with in the past five years. I've been an integral part of trying to change this culture.

I'll take you back. I came to Canada in 2002. I came off a position in Michigan. I've been in operations my entire career. I was the vice-president of the prairie division. The very first week I was there, I knew then, going into that terminal, that I had concerns about safe work practices, about our ability, our employees. Do they truly understand that we expect them to live up to the rules, that we expect them to comply with the rules that protect their lives and protect the communities that we operate through?

So from my past experiences, the way I used to make sure, as an operating officer, that the message got delivered to the employees pulling the throttle, to the employees switching the cars, as well as to the direct, front-line officers who supervise those employees.... We have something in the industry called efficiency testing. In America the FRA mandate it; it's regulated. The government makes you do efficiency testing. There's a certain criterion that you have to meet for every employee. When I say "efficiency testing", efficiency testing is when we as operating officers go out to the field and we either simulate, by setting up conditions of controlling a train movement, or we observe employees to make sure that, number one, they understand the rules, and number two, they're applying the rules.

When I came to Canada, we didn't have regulated efficiency testing. So one of the first initiatives I implemented myself, coming into the territory, was an efficiency testing blitz. Literally, over one weekend—Mr. Vena was in Winnipeg when this happened back in 2002—we went out and we started at 6 o'clock in the evening and we worked until 6 o'clock in the morning. We went out across the entire territory, from Saskatchewan to Manitoba, and we observed employees operating by the rules to make sure they were doing that. We conducted efficiency tests, and the failure rate was alarming, to the point that even the dispatchers we had, who worked for us in Edmonton....

The dispatchers control the train movements. When you test a train—those signals—it's no different from running a red light on the street. If you run the red light, you risk your life and you risk someone else's life. That's the way the signal systems work on the railway. So to test them, typically the dispatchers had to be involved. What you do is you talk to the dispatcher and you ask the dispatcher to control the signal. Give them the red light—hold the right light, for lack of a better term.

When we did that, I had the officers who worked in the dispatch office explain to the dispatchers what we were doing. We were out ensuring that our running trades employees were complying with the rules. We need them to hold the signals at a particular location, because once they do, the rule book tells that employee what they're supposed to do. So we were going to be in the field and we were going to be observing to ensure that this employee did do that. What happened as a result? When we did that, the dispatchers refused to do it. This is what I'm talking about: the culture.

The dispatchers felt that instead of ensuring the safe operation of our railway by engaging in these efficiency tests, they were entrapping the employees who were out operating the trains. It was all in the context that they looked at. As a result, the dispatchers walked out.

I say this so you understand the culture. We have a situation where we want to get people to ensure we have a safe operation and they won't even engage with us and won't even allow us to do that.

I'll tell you why this is so near and dear to my heart. Every time we have a major derailment in my territory, I get up out of my bed and I go to it. I unfortunately have dealt with "Lillooets" before. I was at McBride. I've dealt personally with the deaths that have happened in this region. I dealt with a death, with a head-on collision, that I had in Michigan, just six months before coming to the prairie division, when we had these efficiency tests. So these are near and dear to my heart.

When I have employees who don't understand, and the culture says we're entrapping employees because we expect them to follow the rules, I can't accept that. That's what this is all about; it's about change. It's trying to create an environment where employees in the past may have been confused because, yes, we had permissive practices, yes, we allowed them to maybe not work by the book. Today, we expect them to comply with the rules. When you expect employees to comply with the rules, sometimes you have to take corrective measures. It would be no different from having the OPP expecting you and requiring you to adhere to the speed limits. If you don't have them out there, effectively checking every once in a

while, then you're going to have mass chaos and people are going to do what they want to do.

We're out there checking now. We're out there trying to educate our employees, and as a result, some of these employees who Transport Canada may speak to...they listen to these urban legends, to these stories. They don't have direct knowledge. They don't understand that we have an issue with employees who may go by those red signals. That's part of those notice and orders that you talked about.

● (1640)

We had an issue in Ontario where our running trades employees were going by red signals at an alarming rate. Did we get a notice from Transport Canada? Absolutely. But did I need Transport Canada to tell me that this cannot and will not happen on our railway? Have we already implemented efficiency testing to curtail and control employees' behaviour so they don't engage in that activity? Absolutely. We did.

Much of what we are talking about is change. It's not that upper management says one thing and lower management doesn't understand what we expect. We, as senior managers, have processes in place with our operating officers. Their compensation is tied to these efficiency tests. They're required to do safety blitzes; they're required to do train riding. Do they like it? Even with our own officers the change has been so fast that they don't understand sometimes. We have to explain to them, "You're ensuring the safe operation of our railway. You're ensuring the safety of the communities we operate through."

It's not that there's a disconnect; it's that we're in the middle of changing a culture. And changing a culture is not easy, especially in an industry that has been around.... Many of our employees have worked the first 30 years of their career with an attitude of when it's convenient, they'll comply with the rule book. But for the last five or ten years it has been a condition of employment. They have to comply with the rule book.

The Chair: Thank you, Mr. Creel.

Mr. Volpe.

Hon. Joseph Volpe: Thank you very much, Mr. Chair, for letting him speak for as long as he did. I think CN needs to get its position out. But he has opened up an opportunity for us to come back with a supplementary, so please put me down for the next round.

The Chair: Absolutely.

Monsieur Carrier.

[Translation]

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

Good afternoon, gentlemen from CN.

I'd like to go back to the safety system that was implemented at the railways. You said earlier that it had been in effect at your company for five years. So you've had the time to familiarize yourselves with the system and to implement it properly.

In your view, has it enhanced security measures? Has the system enabled you to improve safety, or has it forced you to do so?

• (1645)

[English]

Mr. Keith E. Creel: If you look at the numbers, the statistics show that injuries in this company have gone down consistently over the past five years.

[Translation]

Mr. Robert Carrier: That was the gist of my question. I wanted to know whether the system in itself was more demanding, whether it had more constraints and checkpoints and whether it was more comprehensive, not in terms of accident statistics, but in terms of safety. Do you understand?

[English]

Mr. Keith E. Creel: The process itself.

[Translation]

Mr. Robert Carrier: Yes.

[English]

Mr. Keith E. Creel: The process itself requires that the officers spend their time interacting with employees and ensuring that we have rules of compliance in the field. Prior to the system and the process being implemented, officers were free to stay in offices. Officers felt the job they had to do was in an office behind a computer, instead of on the ground with the employees where the work is actually occurring.

Philosophically, there is a huge difference. The measures that we hold our employees—our operating officers, our front-line supervisors—accountable to ensures that they engage in those activities. So yes, the process is much more comprehensive and much more extensive than it was five years ago.

[Translation]

Mr. Robert Carrier: Did you implement the system in cooperation with Transport Canada? In other words, did Transport Canada force you to improve your management system as a whole?

[English]

Mr. Peter Marshall: The safety management system is a system, but it's very much a framework. There are components within the safety management system, including measurement and investigation. We work hand in hand with Transport on that. It's not a mandate as much as it is a cooperative effort. The safety audit was Transport Canada's way of going out to the field with CN and CP and the other railroads and determining whether the system itself was being put into place.

It's a bit of a two-way street here. We work hand in hand. We develop the framework together. We developed the safety management system together. We are expected to implement it and be guided by it. Again, measurement and improvement and statistics and incident investigation are just some of the components. Training

is one. Policy is another. Again, I would say, Monsieur Carrier, it's a back and forth.

[Translation]

Mr. Robert Carrier: Since you've implemented the system, have direct inspections still been conducted by federal inspectors, or have they been replaced by a control conducted within your system itself?

[English]

Mr. Peter Marshall: I don't have the exact numbers, and I can't speak for Transport Canada, but I will give you my experience, which is that they have looked at trying to understand the safety management system and be out on the property with their inspectors. And their focus is on compliance with the safety management system, because again, the safety management system is more of a framework; we put the specifics against it. It's like any audit; they will test us against our own procedures and specifications. I think they have a pretty good balance of looking at the system and also being on the property.

The Transport Canada inspectors were very visible during our labour disruption where we had management people replacing conductors.

[Translation]

Mr. Robert Carrier: The Department of Transport wants to implement this system in the airline industry as well. It's presenting it to us as a way to increase safety. According to that viewpoint, this management system, in addition to federal inspections, would enhance safety. Do you get the impression that your safety is increased with the implementation of this system?

It doesn't give that impression. I won't repeat the list of cases that have been mentioned here, but we nevertheless deplore a very large number of accidents, derailments.

If the Safety Management System hadn't been in place, would the situation have been even more dramatic?

• (1650)

[English]

Mr. Peter Marshall: My view is that the safety management system has made us better. Unfortunately, in 2005, we had a couple of very high-profile incidents, and a lot of attention has come on to the railways and CN. We understand that. It goes back to some of the perception. I think we have demonstrated that the trends—except in 2005 and the beginning of 2007, unfortunately—are going in the right direction. I think the safety management system has been an important tool—for transport and for the industry. I think we have to keep improving that. I would never say that 2005 was a good year. It wasn't.

The Chair: Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): I have to say, up until I read your bio, Mr. Creel, I thought I was the only person in the world with a bachelor of science degree in marketing and management, so it was quite a relief to read that.

I understand that you served as a commissioned officer in the U.S. army during the Persian Gulf affair.

Mr. Keith E. Creel: Yes.

Mr. Brian Jean: Mr. Vena, I was very impressed to see that you started as a brakeman and you actually worked your way up with the company, and as well received an excellent degree from Athabasca University, which is in my constituency. So I was very pleased to see that as well.

My question is in relation to the audit itself that identified the deficiencies. Indeed, the final audit report that was prepared by Transport Canada and was submitted to CN in June of 2006 asked for a detailed plan for corrective action, which was not submitted as required. And then a ministerial order was issued that ordered CN to submit on August 14 a detailed plan as to how you were going to correct this. On the very day the order required compliance, CN appealed that order from the minister. Earlier, you mentioned that you were working with regulators and indeed you were trying to work cooperatively with them.

Why would you appeal an order from the minister dealing with a corrective action?

Mr. Peter Marshall: Again, others can speak.

I'm sorry, Mr. Jean, you didn't refer to me, but I'll speak.

Mr. Brian Jean: It just shows bad faith, and you can hear it around the table, and I think you can feel it and sense it. Indeed, you waited until the very last day that you were supposed to submit a detailed action plan and then you appealed that order. It seems bad faith all the way around.

Mr. Peter Marshall: I think we followed the process. Unfortunately, there were some great exceptions on our part to how the report was being, first of all, put together, relative to some of these aspects. We were in contact all the time. There were deadlines, yes, but we felt strongly that it was important for our view and our facts to be brought forward. It came to the deadline and they weren't incorporated to our satisfaction, so the process was invoked. I don't think I would view it as bad faith; I think the process was allowed to unfold.

Mr. Brian Jean: With all due respect, my understanding is that you weren't in contact with the department about that order until after the August 14 deadline.

Nevertheless, do you have an emergency response team for CN?

Mr. Peter Marshall: We have an emergency preparedness and response plan.

Mr. Brian Jean: So you don't have a team that will go to a site and remediate the site or deal with an emergency situation.

Mr. Peter Marshall: Across the network we have people who are trained. We do not have a central team specifically assigned to go to any location. We have people across the country who are skilled in this. We also have resources available to us in head office in Montreal, depending on the severity, that will come out and help.

Mr. Brian Jean: Could you provide to the committee a list of those people and their qualifications for responding to an emergency situation?

Mr. Peter Marshall: Sure.

Mr. Brian Jean: So you don't have some sort of team to deal with environmental hazards, cleanups, and things like that.

Mr. Peter Marshall: We have a director of dangerous goods—who Mr. Creel referred to in his opening remarks—who is specifically assigned to dangerous commodities. There are dangerous commodity officers throughout the network who are highly skilled and trained in dangerous commodities specifically.

In essence, a team could be pulled together, but most of our employees at the field level have different levels of qualifications. We also use outside experts, because often two heads are better than one.

• (1655)

Mr. Brian Jean: Could you also provide a list of the experts you've utilized in the past?

Mr. Peter Marshall: I think we could certainly provide that.

Mr. Brian Jean: I think it's important.

I come from a culture in northern Alberta where zero incidents is the key.

Mr. Marshall, you were with Imperial Oil for a while, which is now operating on one of the plant sites in that area, and there is a culture of safety. Quite frankly, I don't think any of us see that culture within CN. If it is there, it's certainly below the surface.

My next question deals with the definition. I looked at the million train mile accidents, and I was curious why there were three times as many accidents in the United States per million train miles. I saw that in Canada you have to report serious injuries, but in the United States they have to report any injury. Isn't that correct?

Mr. Peter Marshall: Keith has more experience in that than I do.

Mr. Keith E. Creel: Are you speaking about injuries and not derailments?

Mr. Brian Jean: I'm talking about the FRA and how any incident, including death, injury, or occupational illness, is required to be reported.

Mr. Keith E. Creel: The key difference in reportability between FRA regulations and Canadian regulations is that when it comes to injuries, the FRA is much more stringent to a point.

In the FRA, for instance, if an employee chips a tooth at work, because it's technically a broken bone it is a reportable injury. That person can chip their tooth and continue working, but there is a responsibility and an obligation to report that to the FRA. Issues like that are included in the numbers. If they had a bee sting, went to a medical facility for a shot to counteract it, and got any type of prescription for an injury, they could go back to work but it would still be reportable because there was a prescription.

So the FRA standards on reportability are much more stringent than the Canadian standards.

Mr. Brian Jean: The conclusion seems to be that Canada is safer than the United States, but the truth is that the definition of safety and the definition of incident are much different between the two countries.

Mr. Keith E. Creel: There is a huge difference. Let me go back quickly, while we have time, to address the issue of the ministerial order that we appealed.

As I understand it, the reason we appealed that order was more for CN to be able to contact the appropriate agencies in Transport Canada to get clarification and express our viewpoints. At the time the submission was required, those individuals were on vacation and on holiday, so it was absolutely mandatory for us to be able to request additional time so we could make those contacts.

The Chair: Mr. Cullen has generously given his time to Mr. Volpe and Mr. Bell. You have five minutes.

Hon. Joseph Volpe: I'm only going to take a moment.

Mr. Marshall and Mr. Creel, I have just an observation, and then you can comment.

I'm always impressed with locomotives, with trains, and with the technology of today. So I was really surprised that the weather would play such a role in the accident and incident rates that you referred to. It would have been my understanding that you would have already factored in the weather when considering, technically, how to address that variable. You'll forgive me if I come away with a sense that perhaps you hadn't taken those measures.

Secondly, Mr. Creel, you gave me a detailed response on the non-compliance of employees. I think initially all three of you agreed that if there's a safety management system in place, one that you helped to put in place, you'd buy into it, and then everybody would buy into it. So if someone deliberately does not comply with an order, a regulation, or an indication that's geared to safety, that person is negligent, at the very least.

Are you suggesting to me, Mr. Creel, that your employees were negligent before, or were not negligent until you made them aware that they were being negligent, and that there is no consequence to negligence and that's why we have this continued high rate of accident? And does that negligence go all the way up the line to you and to, I dare say, Transport Canada through the minister?

We all know what was going on. The audit tells us. You knew. The minister knew. Your employees knew. What's missing?

• (1700)

Mr. Keith E. Creel: Let me elaborate a bit.

First and foremost, let's go back to the question, do we consider and take into account severe winter weather? We have processes in place that effectively do that.

When we have extreme winter weather, when we drop below certain temperatures, especially in the areas where we operate north of the lakes, in very extreme cold climates, we reduce our train speed. We have much more restrictive policies for these detectors that we talk about, these impact detectors.

When steel hits steel and you have cold as a multiplier, the likelihood that you're going to have a break in the rail increases—in

cold weather. Effectively, for these machines, the tolerances, which they measure in kips, the measure of the steel hitting the steel, those systems are turned to a point that the standard in the wintertime is much more stringent than the standard in normal operating temperatures. So, effectively, we have more bad orders during extreme winter weather in an attempt for us, proactively, to take these cars out of trains that could potentially break a rail, which would ultimately end in a track-related derailment. So yes, we do take that into account, but still, the best system cannot predict each and every one of them.

On the other issue, about accountability and about efficiency testing, we have human beings who are required to comply with the rules. Unfortunately, human beings at times rationalize. Some employees, through experience, may have taken a shortcut, or they may have not gotten off a piece of equipment. We may have employees who are out there who get off equipment at six miles an hour, and in their mind they're convinced they can safely do that, but the reality is that the rules say you can't detrain at any speed greater than four miles an hour.

Through these tests, we go out in the field and validate that what they're doing versus what they should be doing is the same. And yes, that's what causes a lot of the frustration with the employees. When we find a difference, we do hold employees accountable. We do have statements. Unfortunately, we do have to implement corrective measures through discipline.

If you stepped back into this company 10 years ago, the occurrence or the chance that an employee would have been disciplined for violating an operating rule was not there, certainly not to the level that it is today.

So I participate in these efficiency tests—and Mr. Vena, Mr. Marshall, and our general managers. We're at a very senior level in this company. We go out and we ride trains. We go out and we efficiency test with our operating officers. We go out and we interact with the running trades employees who are required to comply with these rules. So absolutely there are checks and balances, and absolutely there's a consequence, but as much as we implement those consequences, I can't guarantee that I'm always going to have 100% rules compliance. That's my standard and that's what I'm striving for, but the reality is that as long as I'm depending on a human being to comply with a rule, there are going to be times when they make a mental error, either consciously or unconsciously. They're not going to comply with the rule and we're going to have a derailment, we're going to have an injury, or we're going to have a death.

The Chair: Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to the witnesses here. I'm sizing up the full scope of your testimony. I'm glad these hearings are a couple of hours long, because what I seem to hear more than anything else in your testimony is that, well, it's somebody else's fault here. You've essentially slammed BC Rail. You've discredited an employee of yours, Mr. Rhodes. You've blamed the weather. You've blamed your predecessors. You've blamed workers. You've explained away train speed in an accident in Montmagny. You've said that Transport Canada inspectors are wrong.

The net effect of all of that is that your early sincerity in your opening comments and in the initial part of your testimony has disappeared into a bunch of excuses.

Now, we've sort of danced around the issue of trust a little bit here. I'm going to ask a very direct question and I'd like a yes or no answer, if I could get one. Do you acknowledge that CN has broken trust with Canadians?

Mr. Keith E. Creel: I acknowledge that the perception is certainly there that we've broken trust with Canadians.

Mr. Jeff Watson: I'll take that as a no.

Your actions speak an awful lot louder than your words.

In your own opening statement you said you've increased your audit and inspection processes. Are you willing to admit, or is this an admission that CN didn't have enough oversight in place in the first place?

• (1705)

Mr. Keith E. Creel: No, that's not a correct statement. When it comes to our testing and our rail track testing, or our ultrasonic testing, the fact is you could test 10 times as much as we test and in fact you would never catch every defect that could potentially lead to a derailment or an accident. As long as we run trains, as long as we have steel on steel, the fact is we can never guarantee you 100% of the time that we're never going to have another derailment.

Mr. Jeff Watson: I find it interesting that you call them "efficiency" and not "safety" tests, by the way.

When you talk about these efficiency tests, you say it's alarming how many problems show up, and then you go on to explain how it's a worker problem. You know, I worked on the line for a major auto assembler, a multinational corporation. I was in assembly, and if you had an individual problem with workers not buying into the safety culture, it was pretty easy. But when you have that many workers who are having problems with the safety culture, I would suggest that's a systems problem, not a worker problem. So it's higher up the pike.

I want to ask a couple of questions, in light of some of these problems at CN. I'd like to know how many workers have been disciplined over these issues. How many managers, more importantly, are disciplined? As a worker, you're a cog in a wheel. I'd like to get a sense of how much of the discipline has fallen on management—the system that manages all the cogs, the folks higher up—versus the workers. I think Canadians would be interested to know how you've handled these issues. I'm hearing a lot of blame for the workers. I'd like to hear some numbers on this, or is that proprietary information you don't want to share with me?

Mr. Keith E. Creel: No, it's certainly not proprietary, but for me to be able to tell you that, I'd have to go back to the data. I can tell you factually that we have disciplined managers and we have disciplined craft employees. All employees all held to the same standards, whether they're a manager or a craft employee. It's laid out in our rules and our regulations. They're held accountable.

For our craft employees, there is a prescribed way to discipline within our collective agreements. Our managers are dealt with

completely differently, but in both cases, in both situations, they are held to the same standard.

Mr. Jeff Watson: I tell you, I can certainly identify with someone like Mr. Rhodes. At the company I used to work for they measured five things: safety, quality, delivery, cost, and morale. If you asked any employee on the line, they would tell you that they thought instead that the five were delivery, cost, quality, safety, and morale, because the actions of the corporation spoke a lot louder than their measurements.

I used to be in an inspection job, in final inspection. I got moved off that job because I actually followed the things they wanted me to follow in terms of an inspection. So I guess that's how companies address safety and inspection issues with their workers.

I'm going to ask you something. We had testimony here that when you flip open the GOI, safety is number four. I'd like to get a sense of your opinion. Where in the rules or at what number in the rules does safety come when your employee flips open their book?

Mr. Keith E. Creel: It's first.

Mr. Jeff Watson: Is it first? Okay. We've heard it's number four. Can you provide something to the committee that would show us?

Mr. Keith E. Creel: I have a rule book with me, yes.

Mr. Jeff Watson: Okay. Can you provide it later, through the chair?

Mr. Keith E. Creel: Absolutely.

Mr. Jeff Watson: Thank you very much.

The Chair: Thank you, Mr. Watson.

Mr. Bell is next, and then I'm going to go one final brief round. I'm going to give you about a minute and a half each to close it up.

Mr. Don Bell: I want to ask one question, and you can you provide information....

What happened to the dynamic brakes that were in B.C.? Where did those engines go? How many of the engines that you have in B. C. right now have dynamic braking? That's technical information, and I'd appreciate getting it, because B.C. has unusual geography, as I understand it.

Mr. Marshall, you've referenced perception several times. I spent a number of years in a major Canadian corporation at an executive level. The theme we dealt with was that perception is reality. Within our company we would hear things, and I'd have managers saying it wasn't so and I'd tell them that's what we're hearing in complaints from our customers, so as far as they're concerned, it is so, and therefore it is so; it affects our business.

What I'm interested in, Mr. Creel, is that you were working for a company in Michigan when there was a head-on collision. If that's the head-on collision I've heard of, I understand that the fault in it was attributed to fatigue of the crew. In fact, the crew that was assigned—it may not have been yours, but another one—was theoretically a fresh crew. I'm curious about the issue of fatigue. It was brought to us earlier that you work 12 hours and you can be called back very quickly. There isn't an adequate rest period between times, whether you're at your home station or away. I would appreciate getting an understanding of that.

Finally, I'll go back to a point raised by Mr. Watson and some others. Mr. Fast questioned this as well, and others on my side have asked the question. It is the concern we had from Mr. Rhodes. We requested these people to come as witnesses, you need to know. We went out looking for people. We saw, obviously, stories that appeared in the media and we contacted these people. I don't think they were formally summoned, for want of a better term, but they were invited, and if they hadn't come, we could have summoned them.

He said:

I don't think it's right when a company can fire you for what they call "conduct unbecoming of an employee". When you're not at work and you speak out and try to say something is wrong, they fire you because of that and they call it, in their generic terminology, "conduct unbecoming of a CN employee".

Do you consider that someone who comes and tells us there are problems here is guilty of conduct unbecoming of a CN employee? Would someone like Mr. Rhodes or Mr. Holliday, for example, run the risk of being fired for appearing before this committee?

• (1710)

Mr. Keith E. Creel: Let me comment on that. We understand that the committee invited Mr. Rhodes to testify as to his experience, and we respect the committee's desire to obtain his perspective. Certainly, we have no intention...he will not be disciplined for appearing before this committee.

Mr. Don Bell: Do you mean Mr. Holliday as well?

Mr. Keith E. Creel: That's correct.

The Chair: Mr. Laframboise, you have about a minute and a half.

[Translation]

Mr. Mario Laframboise: Thank you very much.

Earlier my colleague asked you a question concerning the Safety Management System and all that. You said that it had improved your situation. You also understood that the 2006 CN management practices audit report was devastating. That troubles me because you seem to be saying that things are working, but the report clearly shows that a lot of irregularities were found.

I'm going to ask you a question on a very specific subject, the Quebec City bridge. You have been unable to repaint it because it's rusted, and you may not have the necessary money. What guarantees do I have that it's safe? How can you guarantee that the Quebec City bridge is safe, since you aren't maintaining it, since you're not painting it, and it's therefore deteriorating and rusting a lot?

[English]

Mr. Keith E. Creel: First and foremost, the Quebec City bridge is inspected by certified engineers. The maintenance of the bridge and the painting of the bridge—the aesthetics of the bridge—are two separate issues.

This company, when we were privatized, had an obligation to contribute to painting and helping with the aesthetics of the Quebec City bridge. This company has fulfilled that obligation. However, we maintain the obligation for maintenance and we uphold and meet our obligation for maintenance. Simply because it may have rust on it aesthetically does not mean that mechanically or in terms of engineering it is not structurally sound or that there are any safety concerns. There are absolutely not.

The Chair: Go ahead, Mr. Julian, for one minute.

Mr. Peter Julian: Thanks, Mr. Chair.

I have three questions to finish. First, there is a perception that CN has cut corners on safety. I'd like to know how many employees CN has laid off or terminated in Canada over the last five years.

Second, because in 2006 there is certainly a perception that inspections and more oversight made the difference, is that part of the solution—more inspections and more oversight from the government and less SMS?

Third is a small question, but I think an important one. Witnesses told us you couldn't use the words "Canadian National" anymore within CN. Is the word "Canadian" now a bad word at CN? I noticed that nowhere does "Canadian National" appear in the document you submitted.

Mr. Jim Vena: Let me answer on the Canadian National thing very quickly. I'm a Canadian. I was raised in Jasper, Alberta. I went to the University of Alberta. I graduated from Athabasca University. And it's nice to know that you noticed that.

When you buy and merge with a number of companies, whether it's Wisconsin Central, Illinois Central, or BC Rail, CN is a known Canadian company and institution. We did not do it because we have a problem being Canadians, when most of us are still Canadians. We call it CN so it's one company. We did it so the people in the U.S. would not continue to call themselves CNIC. I'm not sure where this comes from.

• (1715)

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

We have some committee business we have to deal with. We appreciate your taking the time out. We know it is a hectic time for you. I think part of your appearance today, during Rail Safety Week, is that it's important that we get these issues discussed. We look forward to future discussions. I thank you.

I'm going to take a brief two-minute recess. If everyone wants to move out they can, and then we'll come back to committee business.

Mr. Keith E. Creel: Could I make one more comment, Mr. Chair?

The Chair: Be very brief.

Mr. Keith E. Creel: We'd like to offer an invitation to our facilities. We have a very large terminal in Montreal. We have the largest terminal in our system in Toronto. If any of the committee members or any of the concerned parties here would like to come out and visit and tour those facilities, we would be more than happy to set those opportunities up so you can come and see the workplace for yourselves and see the processes for yourselves.

The Chair: Thank you very much.

The meeting is adjourned for two minutes.

- _____ (Pause) _____
-
- (1720)

The Chair: Gentlemen, we're back to committee business.

We have a motion from Monsieur Laframboise. I have circulated some notes from the subcommittee meeting.

Before I go to Monsieur Laframboise, I want to give Mr. Jean 10 seconds. I think it's of interest to the committee.

Mr. Brian Jean: This is in relation to the Quebec bridge. I'm offended that Transport Canada would for years negotiate with CN to get work done, and it would take the Attorney General, through the minister, ordering them to take legal action for them to do anything on the Quebec bridge. I find it insulting, quite bluntly—I wanted to say it in front of them—that they would say such a thing about the Quebec bridge and about safety. There are just so many incidents.

I just wanted to put that on the record.

Can I speak to the motion?

The Chair: Mr. Fast.

Mr. Ed Fast: A point of order. Before we start, I notice that my motion, which was supposed to be deferred to today, as per our agreement last Wednesday, isn't on the agenda. I understand it went to the executive.

It's the only motion I've ever presented. I'd expected that people would take it seriously. Since the Liberal leader has now announced that he is going to be supporting the remailers, it seemed to me that this would be a simple motion for us to pass. Could I have an explanation as to why it's not on the agenda today?

The Chair: It's my understanding that the adjournment was to bring it forward at a future date, and the subcommittee agreed with this agenda. I would certainly be prepared, on your behalf, Mr. Fast, to bring it forward to the subcommittee again. We are going to be meeting very soon.

Mr. Brian Storseth (Westlock—St. Paul, CPC): A point of order, Mr. Chair.

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

Mr. Brian Storseth: Maybe the blues will correct me on this, but my understanding of the motion was that the committee as a whole agreed to defer this in the interest of time so that it would come

forward at the top of today's agenda when we discussed committee business. I believe that was the decision of the committee of the whole. I don't understand how the subcommittee can overrule what the committee as a whole has said.

The Chair: I don't want to get into a debate. I will check the blues with the member and will advise, but in reality, Monsieur Laframboise's motion is the first order on the committee business, and I will deal with that first.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: The motion states what it states. You heard the mayor of Montmagny. Until the Transportation Safety Board's report is published, we recommend—this is a recommendation we're making to the government, not an order we're giving it—maintaining the limit of 40 miles an hour. We're recommending that the government do that; we're not ordering it to do it.

[*English*]

The Chair: Mr. Jean.

Mr. Brian Jean: Actually, the coincidence of this is that Mr. Blaney, who was, of course, here when the mayor was here, actually came to me with an almost identical motion that he wanted to present to the committee. I went to the minister, and the minister advised me that the government could support this motion. Indeed, it is good to see that Mr. Laframboise is so similar in nature, as far as Mr. Blaney goes, to come forward with the same recommendation and notice.

The Chair: Mr. Julian.

[*Translation*]

Mr. Peter Julian: Mr. Chairman, this is an excellent motion, particularly since, in view of CN's presentation, I don't have any confidence they'll follow common sense and logic. This sends a very clear signal to CN that we are concerned and that we want regulations put in place to reassure the citizens of Montmagny.

[*English*]

The Chair: Are there any other comments?

Mr. Bell.

Mr. Don Bell: Our side is pleased to support the motion.

The Chair: Okay.

[*Translation*]

Mr. Robert Carrier: I'd like to recall what was mentioned earlier, that is to say that the speed was not at issue in the derailment. That's a fact, except that, as my colleague said earlier, since houses are located very close to the railway line, when there is a derailment, speed means that the train can reach them and even destroy lives. So we should mainly think about that.

[*English*]

The Chair: I think, having heard from everyone, I would ask if the committee is in favour of the motion as presented by Monsieur Laframboise.

(Motion agreed to)

- (1725)

The Chair: I do want to address Mr. Fast's comments.

In the minutes of proceedings, the last motion, Mr. Bélanger's...it was agreed that the committee "defer consideration of the motion to a future meeting". That's the wording. That's not to say that you can't bring it forward.

Mr. Ed Fast: Are those the minutes or the blues?

The Chair: Those are the minutes of proceedings.

Mr. Ed Fast: I will check the blues. I'm sure it was Wednesday, because I had expected it to be Monday, but someone said it would be Wednesday.

The Chair: No.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, your recollection is correct. It was proposed for Wednesday, but the agreement of the committee was for a future date.

Mr. Ed Fast: Could I seek unanimous support to bring it back this coming Monday?

The Chair: I'm advised that you can give notice of motion and bring it back in 48 hours.

Mr. Jean.

Mr. Brian Jean: Thank you for recognizing me, Mr. Chair.

Isn't it true, Mr. Chair, that he can seek unanimous support to bring it back right now and ask for a standing vote as to who would and who would not bring it?

The Chair: Yes, he can bring it back. Actually, you don't need a notice of motion, because it is still an open motion. It can be open for debate at the next meeting or right now.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, we do have the fifth report of the subcommittee before us.

The Chair: I'm sorry, we do have to deal with this. Mr. Fast has put it on the floor. He doesn't have to move it.

If I may, Mr. Fast has the right to bring it forward in a motion to bring it back onto the floor today. Subject to the will of the committee, we move forward or—

Mr. Ed Fast: Mr. Chair, I'll submit to the request of my colleagues and ask that it be brought back today.

The Chair: Mr. Fast has moved to bring back the motion on the remainder issue we discussed at the last meeting. I'm assuming I have to call for a vote on this—or debate.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: I'm going to repeat what I told my colleagues. I don't have any problem discussing this motion again. However, I would like to hear again from the remainders and from Ms. Green of Canada Post.

I told you, and I didn't speak because I was complying with the standards you set for me that I not ask Ms. Green questions on labour relations with her employees. Similarly, I did not ask questions on the legal proceedings involving the representatives of the remainders and Ms. Green. I would have liked us to have the opportunity to hear

them at least one more time. Moreover, the remainders wrote us a letter asking us to invite them back. I would also have appreciated hearing from Ms. Green again. Then we'll be able to vote on this motion. That's not a problem for me. I just refrained from asking any questions in order to respect your wish that I not speak. Do you remember that you told me not to ask any questions on the legal proceedings or on labour relations with employees. I would have liked to hear from these people again, that's all. As for the rest, if you want to do it without hearing witnesses, that's your choice.

[*English*]

The Chair: Mr. Julian.

Mr. Peter Julian: Well, Mr. Chair, Monsieur Laframboise has said very eloquently the concerns he raised at that time. Monsieur Bélanger from the Liberal Party raised similar concerns, and so did I. It was premature.

That's why I don't think it's appropriate to throw it out with a minute left in our committee meeting, prior to the bells going off and prior to us going to the House to vote. From all three parties on this side of the table, we raised concerns about it being premature. Some of us may end up supporting the motion, some of us may not, but I think it is fair to say all of us agree that it was premature to present it at that time. To throw it out now is premature and I think inappropriate.

There's got to be a debate. We've raised concerns, and Monsieur Laframboise has said very eloquently that there are some questions he would like to ask about the effect of this motion. So I would just ask Mr. Fast to hold tight and allow the committee to do some work around his motion, if he really wants it to be adopted in the end. If he doesn't want to see it adopted, that's another thing. But if he wants to see it considered and adopted the way we all requested at the last meeting, he should allow the committee to have a bit of a process on it. And Monsieur Bélanger is not even here.

● (1730)

The Chair: Mr. Bell.

Mr. Don Bell: The last time, there were different feelings within our side, the Liberal side, on it.

We wanted to have an opportunity, Mr. Fast, on this side to have a discussion among us as Liberals, because Mr. Bélanger had a particular point of view and there was a split point of view within our side.

I would say that from my position, I am, to quote CN, perceptually inclined to the issue you raised. But I would like the benefit, number one, of having it in front of me again, and I would like the benefit of having a discussion with my colleagues before we get into it. It may be appropriate, as Mr. Laframboise has said, to bring back those people.

I also appreciate and am cognizant of the point you made, and, again, I'm perceptually inclined to believe there is some urgency because of the actions being taken by Canada Post. I understand this. Therefore, I don't want to see it dragged out any longer than necessary, but I don't think today is the time to deal with it.

The Chair: Mr. Fast.

Mr. Ed Fast: Let me put it this way: I'm totally opposed to bringing Moya Greene back, or the union, quite frankly. What we're doing is asking that the status quo be maintained, at least for now—that's what it is—because of the urgency of it.

I don't want you to prejudge it. Your leader has already gone on record saying he supports the remailers; that's without talking to Moya Greene or hearing further testimony from CUPW. That's pretty straightforward. You guys know where you're going to go on this.

Mr. Don Bell: Maybe you could bring me a copy of what my leader said.

Mr. Ed Fast: It's right here.

The Chair: We have before us a motion to bring this back to the floor. It still remains an outstanding motion, but the vote I'm going to ask for is, all those in favour of sustaining or bringing the motion back to the floor, please say yea.

Mr. Peter Julian: I have a question, Mr. Chair.

Voting against this would allow Mr. Fast to present it at a future time.

The Chair: Absolutely.

All those in favour of the motion?

A recorded vote has been requested.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: I only have one question. Are we bringing the motion forward without having any witnesses appear

again? The witnesses won't be coming back? Is that what you're saying?

[*English*]

The Chair: I'm saying that as a member, Mr. Fast has the right to bring it back any time he chooses.

All we're voting on now is whether his motion to bring it forward today will be sustained. It's still on the books.

[*Translation*]

Mr. Mario Laframboise: Without witnesses.

[*English*]

The Chair: It's a recorded vote.

Mr. Storseth, on a point of order.

Mr. Brian Storseth: As Mr. Bélanger said in the past, I want to confirm that we're out of camera for the recorded vote.

The Chair: We're on record.

(Motion negatived: nays 6; yeas 4)

The Chair: You have in front of you the recommendations of the subcommittee concerning the upcoming meetings. I know Mr. Julian had tried to move it earlier.

Mr. Peter Julian: So moved.

The Chair: Will this be accepted by the committee?

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

The Chair: The meeting is adjourned.

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