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Chair

Mr. Merv Tweed

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Standing Committee on Transport, Infrastructure and Communities

Monday, April 30, 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 47. The order of the day, pursuant to Standing Order 108(2), is a study of rail safety.

Joining us today we have David Chudnovsky, who is an MLA from Vancouver-Kensington; we have George Kosinski, former CN locomotive engineer; and representing the United Steelworkers, Todd Cotie, representative of local 2004 union.

Normally we ask you to make a seven-minute presentation. We'll do the presentations first and then go to questions around the table.

We'll start with Mr. Chudnovsky, please. Welcome.

Mr. David Chudnovsky (MLA, Vancouver-Kensington, Legislative Assembly of B.C., As an Individual): Thank you very much, Chair, and thank you to the committee for the opportunity to speak to you today.

My name is David Chudnovsky. I am the member of the Legislative Assembly of British Columbia for the constituency of Vancouver-Kensington, the best, the very finest of the 79 constituencies in British Columbia. I am also responsible, on behalf of the official opposition, for being the critic of the Minister of Transportation, and that begins my interest in this issue.

I want to begin by recalling that in August 2005 there was, as I'm sure you're aware, a disastrous spill into the Cheakamus River, which is in southwest British Columbia near the town of Squamish. As a result of that spill, the derailment of a CN train, I became very involved in this issue.

Before I go any further, Mr. Chair, I want to pay tribute to your clerk, Mark D'Amore, who was very helpful in getting us ready for this and making sure the brief was translated, etc. So thank you to Mark.

The reason I point to the spill in the Cheakamus Canyon, Chairperson, to begin with, is that I want to impress upon the committee that this is not simply a technical exercise. People in British Columbia are scared and have been scared for a couple of years. They're nervous. People who live in CN rail corridors have had enough derailments that it's something that folks think about all the time. You'll recall—and I'm sure you've looked at some of this stuff—that there was for a while, it seemed, a derailment every day or every couple of days.

I point you to appendix 1 in my submission. I won't go through it, but it is a timeline of derailments working backwards from now. It's only a couple of years' worth, and only in British Columbia, and there are pages and pages of them.

So the first thing I want to impress upon you is the seriousness with which the folks who live in British Columbia take this issue and the fear and nervousness they have with respect to CN.

I also want to say in introduction that I asked the Minister of Transportation, the Honourable Kevin Falcon, to accompany me here today to give whatever information he could provide to you together with me. He chose not to do that, but I encourage you to be in touch with the Honourable Kevin Falcon, the Minister of Transportation for British Columbia, who among other things was involved in the negotiation of the sale of the former B.C. Rail to CN. One of the questions I would encourage you to ask that minister, and I've asked him many times, is what discussions, if any, took place with CN, at the time of the privatization of B.C. Rail, about safety maintenance or environmental protection. What commitments, if any, were made?

I want to say I have set my mind and that of my colleagues to the question of what it is that has made the situation with CN in our province so peculiar over the last couple of years. Why is it there have been so many derailments and so many tragedies and near tragedies in British Columbia? I would suggest, Chair, there are two explanations for that, which we need to look at carefully.

First of all, I believe CN was not ready for the topography, the geography, and the environment of British Columbia when it took over the former B.C. Rail line. They thought they were just running a railway in the same way as they did in the rest of the country. But as we know, the topography and the geography of British Columbia are unique. The changes in elevation, the curves—the range of topography is such that it is unlike anything else that a major rail company faces in North America. So that's the first reason that I think we have seen for the problems we face in B.C.

The second reason is the fact that we moved from a crown corporation, a company that was owned and run by the people of the province of British Columbia, which, to some extent at least, was operating on the basis of providing a service and a return to the people of British Columbia. We moved from that to a very large international corporation that has a very different strategy and philosophy of running its operation. What arose from that were very specific choices they made, for instance, to move locomotives and rolling stock from the B.C. situation to the rest of the continent. This seems to have been a contributing factor to some of the problems we face.

I want to say parenthetically that I read the transcript of the submission to you last week by Mr. Gordon Rhodes, with whom we have been in touch over the last couple of years. I want to be clear that in every case—I read it carefully—the situations, the problems, the reductions in safety standards he described to you that are attributed to CN, we, in our office in B.C., have heard as well, from sources beyond Mr. Rhodes.

I would point out that in the brief—and I hope you'll have an opportunity to read it—we have itemized, among many, many of the situations that have been described to us by people in British Columbia, a number of changes that we focused on. The changes and practices chosen by CN after they took over from B.C. Rail are the areas we chose to focus on. Some of those you've heard a lot about in your deliberations: the length of trains, dynamic braking, and power at the centre of the trains. There are a number of others that you wouldn't have heard very much about, which I would encourage you to have a look at. They are on page 4; I don't have time to read them precisely.

The last point I want to make—and I hope there will be a chance to have questions and answers—is that the relationship between the company as employer and the workers as employees is one of the contributing factors to the problems we face. Appendix 2 at the end of my brief outlines some of the problems in terms of the employee relations used by CN.

Chairperson, I'll finish now by thanking one other person for helping to prepare the brief, and I hope people have a chance to look at it carefully. I will thank our researcher—whose time I get one-sixth of in the legislature in B.C.—Sarah Goldvine, who has done a tremendous amount of work over the last couple of years in preparing this material.

Thank you very much for your patience.

● (1540)

The Chair: Thank you.

Mr. Kosinski, please.

Mr. George Kosinski-Ritmeester (Former CN Locomotive engineer, As an Individual): My full name is George Kosinski-Ritmeester, as I appended my wife's name when we got married. Railroaders of my day knew me as George Kosinski.

I worked for CN for five years as a switchman, breakman, and conductor, and then for the next 10 years until my resignation in 1989, I worked as a locomotive engineer. With the exception of CN track formerly belonging to B.C. Rail, I've run trains on every subdivision west of Wainwright, Alberta, to the Pacific Ocean,

except the stretch from Blue River to Boston Bar in B.C. When I resigned in 1989, I was already becoming alarmed by the dramatic reduction in track maintenance forces taking place and the impending elimination of the cabooses. I just completed my first draft of a thorough evaluation of the Transport Canada action plan to address CN safety issues, commonly known as the CN audit report, to which I will henceforth refer simply as the report.

With the few minutes at my disposal, I'd like to highlight some key points and some key omissions in this report.

The phase one report defines the derailment cause “Unknown/ Data Not Entered — contributing factor not yet determined” and indicates that this category of derailment tripled from 2000 to 2005, increasing at a faster rate than the total number of derailments. This emphasizes not only the urgency of resolving these unknown factors but the possible need for new investigators, who, with a fresh perspective, may discover significant facts overlooked by previous investigators.

The report states: “Should non-compliance to legislative requirements, or threats to safety be found, Transport Canada takes immediate enforcement action.” While this assertion appears to offer some external safeguards, it is unfortunately not worded strongly enough. It should be made clear that Transport Canada will take enforcement action against any threat to safety, regardless of whether it is or is not in compliance with legislative requirements. If Transport Canada has no authority beyond enforcing compliance with legislative requirements, then either its authority should be expanded or Parliament should step in immediately to legislative prohibition against a specified safety threat.

In the discussions following the 1997 derailment that killed two running trades employees on the Ashcroft subdivision, Brotherhood of Maintenance of Ways Employees national vice-president, Gary Housch, said that CN had eliminated over 50% of its track maintenance forces in the decade preceding this accident, clearly expressing his concern that lack of adequate track inspection forces may have been a contributing factor. Nevertheless, with respect to the activity of having track inspected visually shortly before it is traversed by a train, at least in locations and/or under conditions that reflect a compelling need, chapter 3 of the phase one report on corrective actions offers not even a hint of the possibility of increasing these forces. In fact, of the nine initiatives undertaken by CN Rail listed on page 29, not a single one of them would have prevented this accident, illustrating the dangers of overreliance on technology and underutilization of humans.

In any case, increasing the use of track testing equipment is of limited value when, as the report points out, CN is not using the data obtained from these tests to take necessary actions so that track conditions do not deteriorate to a point where they fall below the track safety rules before the next inspection.

The class system with respect to disciplinary action must be eliminated. Front-line supervisors who pressure employees into unsafe practices should be vulnerable to the same disciplinary procedure of official internal investigations, potentially leading to the awarding of demerits, the accumulation of which may lead to dismissal. Where it can be reasonably established that a contributing factor in an accident is an unsafe practice that appears to be condoned by the highest levels of management, it is not sufficient to fine the corporation, even if the fine is higher than the additional net profit accrued from the unsafe practice. The executives of the corporation must be personally fined as well, just as running trades employees are subject to fines for safety or rule violations undertaken on their own initiatives.

For example, if the recent accident that killed the CP engineer in Trail involved a locomotive not equipped with dynamic brakes, I would regard that as criminal negligence on the part of management.

Page 19 states: "Transport Canada's Rail Safety Directorate, in conjunction with the Department's Transportation Development Centre, is currently conducting an information review on operation of long trains." The intent is to develop terms of reference for a research initiative describing safety impacts and industry best standards and practices associated with long-train operation. In view of the recent spate of derailments, it is simply unacceptable to wait for the results of this review. It is of the utmost importance to take immediate action, not only to protect against potential environmental disasters but also to protect the lives of running trades employees, who should not have to work under conditions where the occasional death of one or more of their members, every once in a while, seems inevitable.

As a temporary measure, until the review is completed, a blanket length restriction should be imposed. Every train on any subdivision between Edson, Alberta, and the west coast should be restricted to a maximum length of 100 cars, with trains carrying any cars containing toxic chemicals restricted to 50 cars and five miles per hour under the speed limit. These restrictions should also apply in mountainous areas in other provinces, as well as on flat track containing many tight curves, and in other locations where permanent or temporary conditions suggest a compelling need.

● (1545)

Perhaps the review will conclude that it would be wise to retain these restrictions permanently. Transport Canada appears to be authorized to enforce such restrictions, but if it isn't or it isn't willing to authorize them, then Parliament should enact legislation to impose these restrictions. If the federal government has the power to force striking rail workers back to work, they should also have the power, and do have the responsibility, to ensure that those workers and the communities to which their trains are travelling are not subjected to dangerously narrow margins of safety.

CN may complain that such restrictions would increase operating costs, but the fact that it paid its CEO \$46 million in salary bonuses and stock options in 2005 suggests that it can easily absorb the minor increase in the operating costs.

I would also like to address the issue of rest, which was completely ignored in the report. However, time restrictions prevent me from offering anything more than one brief comment.

The pay structure, as it was constituted in 1989 and perhaps still is, creates a conflict with a desire to obtain adequate rest. A 1983 study carried out by an American presidential study commission condemned the existing pay structure. Its final conclusion was that there is no reason—logical, legal, moral, or otherwise—to perpetuate the present system as it is, for the unborn child and for persons not yet employed. So one might wish to inquire as to whether it is, 24 years later, still being perpetuated.

Thank you.

The Chair: Thank you very much.

Mr. Cotie, welcome.

Mr. Todd Cotie (Representative of Local 2004, Union, United Steelworkers): Thank you for this opportunity to address the standing committee.

My name is Todd Cotie. I'm a machine operator for CN Rail. I've been there for 12 years. Currently I'm the health and safety coordinator for USW local 2004, representing 3,200 track maintenance workers across Canada. I'm speaking on behalf of those members.

The United Steelworkers are very concerned about safety for the workers we represent, as well as for all users of the rail system and for the communities through which the railways pass.

First, I want to lay out some general concerns with what we see as a deteriorating commitment to safety at CN, where the bottom line is pushing safety down the list of priorities. This is unacceptable.

Second, I want to offer a suggestion to the standing committee for concrete action they could take that would immediately improve rail safety. That is legislating mandatory track slow orders to trains when they pass railway maintenance workers in close proximity.

Here are our general concerns.

First, accidents and derailments are on the rise. As this committee has been made aware, 2005 was a particularly bad year for derailments, with more derailments and with dramatic environmental consequences in some of the higher-profile derailments. These serious accidents have tipped the balance in terms of public awareness and have led to increasing public pressure on companies such as CN and on government bodies such as the standing committee to take action to fix railway safety in Canada.

Second, government's hands-off approach is not working. Transport Canada cannot expect CN to self-regulate. CN is a corporation; it is accountable to its shareholders. It is clear that CN's focus, now more than ever, is the bottom line. Net income for 2006 was just over \$2 billion. CN is employing fewer people and passing on more earnings per share. Dividends to shareholders were up 30% last year. CN is working hard to impress investors.

CN boss Hunter Harrison, as George mentioned, paid himself \$7.3 million in salary and bonuses in 2006, but his real income comes from the fact that he is also an investor in CN. In 2005, the year in which CN derailments were so extreme, Hunter Harrison exercised his stock options and upgraded his take-home pay for 2005 alone to \$46.4 million. He has a deep personal interest in CN's stock price. We believe business pressures are pushing CN away from the safety-first culture. Transport Canada must play an active and responsible role in ensuring that safety comes first.

Third, accidents don't just happen. Accidents are preventable. We say this as a union, but CN says it too. The difference between us is how we each think you prevent accidents.

CN will tell you that the vast majority of accidents are caused by human behaviour. That seems to be their catchphrase right now. In other words, they believe accidents are the fault of individual bad workers. This isn't true. If it were, CN would be able to discipline its way to safety. Instead, we believe you prevent accidents by fixing the overall safety culture. The problem at CN is that CN culture prioritizes productivity over safety. This is confirmed by the recent Transport Canada safety audit on which this committee has already heard evidence. We encourage you to take this audit very seriously.

That audit found that most CN employees report that there's more emphasis on productivity than on safety. The safety audit also confirmed what we know from experience: front-line supervisors are under enormous pressure to deliver the bottom line. Pressures to get the job done include productivity measurement, workload, and fear of reprisals. All of these are driving the daily routines of front-line supervisors in a direction different from top management's official position that CN prioritizes safety.

Our work crews are under pressure to work faster and longer, with fewer breaks and less time off between shifts. Fatigue, stress, and a pressure to get things done faster instead of better undermine safety on the railways.

All this is to paint a picture of the culture at CN, a culture that forces workers and front-line supervisors to sacrifice safety in order to improve productivity. It's reckless. The company is playing Russian roulette with their workers without even having the courtesy to let them hold the gun. We're asking the government to take the gun away.

Fourth, contracting out undermines safety standards. CN often uses contractors instead of experienced CN crews for a number of reasons, none of which increase safety. Contractors can appear to be cheaper for CN and can potentially reduce CN's liability when there's an accident, but contractors are often not as experienced. Their awareness of the rules, instructions, and safety procedures is not as thorough. Their tools and equipment are substandard. Further, in our experience, because of their more precarious employment, contrac-

tors are more likely to be pushed to take shortcuts in order to get the job done more quickly and stay competitive with other contractors vying for the same jobs.

Accidents involving contractors are reported separately and are more easily swept under the rug. What can't be swept under the rug is the fact that on November 11, 2006, a 19-year-old contractor working on the Kingston sub was killed when he was crushed by a machine turntable that wasn't properly locked out. He wasn't properly trained in the lock-out/tag-out procedure used by CN employees.

Transport Canada needs to take a much more active role in monitoring and enforcing proper training, safety procedures, and certification, and in ensuring that adequate and properly functioning tools and equipment are used by all workers, including contractors.

• (1550)

Fifth, we are concerned about CN's lack of accountability internally to health and safety committees. CN's internal structures for joint management-union health and safety meetings are somewhere between non-functional and non-existent. If safety were indeed CN's highest priority, they would make much better use of these committees. They can talk the talk about safety, but the question is, can they walk the walk? Our experience shows that they need to be pushed.

I would like to close with a specific suggestion: slow down trains when passing work crews working on adjacent tracks in order to reduce risk and the possibility of a derailment next to these people working.

We hope this body will find it worthwhile to exert pressure for this measure to be adopted. This would not cost anything for the government or Transport Canada, and it would cause no undue problems for CN. It would dramatically increase safety. As a simple analogy, when highway work crews are on the road, speed limits for motorists are reduced and fines for speeding are increased. Provincial governments are actively enforcing appropriately increased safety measures when traffic passes crews. The logic behind this ought to apply to railways, but it does not.

This is not a hypothetical issue. Passing trains do kill workers. Less than two weeks ago, on Thursday, April 19, a CN employee, not a member of our union, was killed near Cornwall by a train passing at full speed on double mainline track. When workers, whether they are in our union or not, are working on a main track, sidings, or backtracks that are near another active line, trains should, at the very least, slow down to 30 miles an hour while passing the work crew. This would dramatically increase safety without placing any undue burden on CN's productivity. We believe this to be a reasonable request, when it's considered that the safest way to perform track work would be for no trains to pass workers.

Currently, when trains pass a crew, the presence of that crew has no bearing on speed limit. Whether there is a crew there or not, the movement is limited only by the condition of the track. Freight trains can maintain their speed at 65 miles an hour, and passenger trains at 100 miles an hour, right past the crew. The presence of work crews is ignored. This is not right. Tracks are only eight feet apart, rail to rail, one with work crews and the other with trains. The force of a train passing at 100 miles an hour can blow a worker's helmet off their head. A slower train would allow engineers and work crews more time to notice and react to situations. Slowdowns are safer.

Railways are mandated to slow down when hazardous materials are being carried through populated areas. I believe that was passed in the Railway Safety Act. However, these rules do not apply when carrying the same hazardous material through work sites in non-populated areas. Work crews should be given the same consideration and made aware of the actual hazardous material contained in the railcars passing their work sites. This makes sense both from a worker's right to know perspective, as well as from a preventive joint management-union approach to health and safety.

Work crews often have difficulty clearing for these passing trains on a work site, because of tripping hazards, ties, rails, uneven ballast, etc. High embankments, reduced shoulders, deep snow, bridges, flying debris from the trains, or dragging equipment from the trains also create an increased risk to the worker. God forbid if a train derailed beside a work crew. They've had three in the Kingston sub in the past six weeks.

We are fighting for what is simply common sense. Anyone else I've explained this to understands the reasons for a slowdown. The only ones who can't understand are CN.

On April 28, I was at the annual day of mourning ceremony at Sudbury, Ontario, honouring workers who have been killed on the job. I mentioned the recent tragedy that occurred in Cornwall with the CN worker being struck and killed. It was suggested that I write a letter to CN requesting that flags be lowered to half-mast when an employee is killed. I said, "I've written dozens of letters to CN requesting that the speed of trains be lowered near workers so we don't have to lower flags."

Thank you.

•(1555)

The Chair: Thank you very much.

Mr. Bell.

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

Thank you, gentlemen, for coming. I appreciate the comments you've made.

Mr. Chudnovsky, I have a couple of questions about the material you presented. One of the issues you addressed is a concern of mine. I asked CN about it, but we didn't have a chance to get an answer at that point. It was the issue of dynamic brakes. The B.C. Rail engines had them, but I don't know where the B.C. engines went. I understand they were disposed of or moved away. The few engines that had dynamic brakes were disabled, or are no longer in service for some reason. The feeling—certainly of Mr. Rhodes—is that had dynamic brakes been available on his engine, perhaps his two co-workers would still be alive.

That's the difference you referenced in your presentation between a water-grade railway and railways in B.C., with the radiuses and inclines we have. I think the most recent accident involved 13 miles, I think they said, at 2.5% grade, which is substantial.

What concerns me is some of the other practices I saw in the report. They're not only in British Columbia, but they're magnified when they're in British Columbia. For example, track patrols had been reduced. There was one example given to us of where a track had been hit by a rock and misaligned. The engineer, through skilful handling, was able to get 27 cars over the joint before there was a minor derailment, and he had slowed down. So the track patrols concern me.

The other is the notices and orders. There were 99 outstanding when this report was done in November 2005, and I think 24 of them went back to 2000 or earlier. I find it incongruous that they weren't addressed, when we're dealing with these kinds of things.

Another issue is bad orders. I think 75% of the inspectors said it was not uncommon for the tag to be taken off a car and the car put back in.

The other issue is the use of U.S. standards for both the engines and cars. The most convenient standard seemed to be the one that was favoured, for the most part. I understand that when they're running an operation between the U.S. and Canada it's sometimes difficult to make those distinctions, but the witnesses—even the vice-presidents of CN who were here—acknowledged that for the most part Transport Canada regulations are stricter. There are some in the States they say are stricter, but for the most part Transport Canada regulations are stricter.

On the two issues identified in the reports as the major causes of accidents, one was the equipment, the rolling stock; and the other was the track conditions, the maintenance of the tracks. I've heard some suggestions here.

My concern is obviously the workers' safety and the public's safety in the area where a train derailed. There are examples, in the States in particular and here, of derailments with hazardous chemicals that have put the public at risk. There was one incident in Mississauga years ago, and others since then, such as Hinton.

The other issue is the environment, like in the Cheakamus River, where the fish stock might be damaged for 20 or 30 years.

Then there's movement of goods and services—the imports and exports that this country relies on. With the Pacific gateway and the growth of the Asia-Pacific market—China and India in particular—it's important that we have the ability to keep these trains moving to serve the ports and the trucking industry so we can have an efficient economic system.

So the whole issue of safety is extremely important, which is why this committee undertook this inquiry. We're interested in safety in air, water, and rail. Rail was one of the issues because of the high number of incidents in 2005, and the high-profile incidents.

You've heard some of the testimony and you've had the chance to review the testimony from the other individuals. You've made one suggestion, Mr. Cotie, about mandatory track slow-down orders. The records don't seem to be available as to when those were involved. We've heard about the others.

Mr. Cotie, is it practical for workers to move away from the track when they see a train coming so it doesn't have to slow down as much?

● (1600)

To Mr. Kosinski or Mr. Chudnovsky, do you have some recommendations that this committee could make in dealing with the issues of regulations and legislation? I know one of the suggestions is that we put more teeth into the Railway Safety Act, much like the Aeronautics Act has, for accountability and responsibility.

Maybe Mr. Cotie, and then back over to Mr. Chudnovsky.

Mr. Todd Cotie: The 30 miles per hour has come from various rules. I referred to hazardous materials going through populated areas. I believe that speed limit is 35 miles per hour. A train passing us does not necessarily have to reduce its speed to 35, because it might be out of one of those populated areas.

We have boarding cars, white fleets, where we sleep—sleeper cars—that are adjacent to the track, eight feet away, the same as a work crew would be, and there are rules in CP's general operating instructions—which you may be familiar with, that's what they operate on—to reduce the train speed to 30 miles per hour when passing white fleets—within 30 feet of centre of track, which would mean the siding and the back track. We fought for the last two years with CN to adopt similar rules. They finally have issued a 30 miles per hour slowing to pass these white fleets. That's where the 30 miles per hour is coming from.

The work crews that I'm talking about are generally larger rail gangs, tie gangs, that are on the Kingston sub, which is double mainline track. The way they're protected is through a flagging system. There are two red flags. Trains are given orders to contact a contact person who is responsible for that area through the flags. Employees are warned that a train is coming, but they don't reduce the speed through the red flag. So they're aware. There are a lot of places out there where they can't clear, because of shoulders—or clear to a reasonable degree. I believe the minimum distance is 16 feet from nearest rail through their rail to maybe the shoulder. That's reduced when there are curves in the rail, and also at night, with reduced visibility. There are tripping hazards on their side, because they're changing ties and what not.

The protecting person for the red flags is a unionized employee. Safety suggestions have been made through job briefings that they reduce the speed to 30 miles per hour. They have done that. The guys have come back to me and other safety reps and said that they're very comfortable with the 30 miles per hour as opposed to the normal 65 for freight trains or the 100-mile-per-hour VIAs.

The company got word that they'd reduced the speed in the red flags. They came back and upped the speed again, saying that it's not necessary.

● (1605)

The Chair: Mr. Chudnovsky, would you like to comment?

Mr. Don Bell: I'd like to thank you for getting your access to information. We asked for these reports and couldn't get them initially.

Mr. David Chudnovsky: I would like to make several points. I'll make them as quickly as I can. One of them relates to that.

First of all, on the issue of the problems that have been identified, I want to say that as soon as the Cheakamus derailment happened, and then a series of them afterwards, I got dozens of calls from people who work on the trains, and all said the same stuff. They said length of train, dynamic braking, distributed power—over and over again.

It seems to me that we need to learn from these people. We need to learn from the people who are actually doing the work, and take them seriously. I learned more about streamlining in two weeks than I ever thought I would know. Everybody knew and understood...I shouldn't say "knew". The opinions that were expressed by folks who actually do the work were unanimous. They described the reasons for this spate of derailments. They all used the same descriptors and all described the same reasons. I think there's a lesson for all of us to be learned there.

Point two is with respect to the standards. You made the comment, and you're right, that the standards for reporting and for maintenance and safety in the United States are lower than the Transport Canada standards, but the B.C. standards used to be even more stringent than that. It certainly seems to me that one thing we need to think about is the unique situation and characteristics of the B.C. situation. If it's for you and for the federal Parliament to decide what the national standard should be, certainly somebody has to take account of the fact that we have a very unique situation in B.C.

The third point I wanted to make very quickly was on transparency. It's outrageous that we should have to go to access to information to get this information. It was our office, many months ago, that made the access to information request that resulted in the audits' being made public. As I say on page 2 of my brief, there are three other sections of that access to information request that haven't been complied with yet, all of which would provide useful information to all of us who are concerned about this issue.

Finally, the fourth point I wanted to make, Chair—thanks for your patience—is on the issue of self-regulation. If you're looking to me for a recommendation, I'd say self-regulation is ridiculous. We cannot expect companies whose responsibility is to their shareholders and the bottom line to be regulating themselves when it comes to an issue as important as rail safety.

[Translation]

The Chair: Mr. Laframboise.

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

Mr. Chudnovsky, I want to get back to what you said about the safety management systems.

The committee is reviewing this issue and is facing Transport Canada who is trying to convince us of the advantages of its safety management system. The department says the system requires companies to add another layer of safety. But we know that Transport Canada has fewer inspectors to make the visual checks that were done previously. This is the situation we are now facing.

They want to implement safety management systems in the air transport industry. We are presently discussing this issue. You said that contracting out safety management to private companies without supervision is problematic. I can appreciate that.

However, I have somewhat of a problem with the B.C. government position. You said that stakeholders should take action. Last week, the mayor of Montmagny told us there were several accidents on a section of the rail line located in his municipality. He wanted the speed limit to be lowered. The committee unanimously

decided to review the matter and to recommend that Transport Canada reduce the speed limit on a section on the line.

However, British Columbia covers a vast area. The B.C. legislature would have to give us a mandate. If the B.C. government is happy with the present speed limit, it would be very difficult for us to legislate in this area. A change in the speed limit could have an economic impact on the transportation of goods, passengers and so on. Given the area covered by B.C., I would agree to support you provided the B.C. legislature asks for specific regulations.

Why doesn't the legislature do it? Otherwise, you will have to convince me to disregard the B.C. government who has higher standards. Up until now, according to what you said and what I read, the B.C. government never asked the federal government to change the regulations applying to this province.

•(1610)

[English]

Mr. David Chudnovsky: First of all, thank you for your question. I can only endorse your frustration with the B.C. government. That's what I live with all the time.

Let me try to explain my understanding of the position of the B.C. government—it's not mine—and then my position with respect to what they say.

The former B.C. Rail, which was a crown corporation in British Columbia, was sold to CN. The deal finished in 2004. The position of the Minister of Transportation in British Columbia, and therefore of the British Columbia government, is that the railway, having been sold to CN, with CN being an interprovincial, national railway, is now a federally regulated entity.

The answer of the minister, when I questioned him, often and assertively, both in public and in the legislature, was, "That's federal. Go talk to them in Ottawa." Here I am.

My view of his position is that while there may be a sense in which he's formally correct, it's nevertheless the responsibility of the Government of British Columbia to advocate on behalf of the people of British Columbia. When those people in British Columbia and the environment are put at risk, which we believe they have been over the last several years, then it's up to the minister in British Columbia. Even if he believes that it's federally regulated and he has no formal jurisdiction, it's his job to come here, to contact his federal counterpart and to publicly advocate on behalf of the safety and security of the people of B.C. and our environment.

Personally, I don't accept the position of the Government of British Columbia. I know we may get into a whole constitutional thing here, and I'm not sure I want to, but I don't accept their position. I think they should be much more aggressive and assertive. Their excuse for not being so—and I think it's simply an excuse, and it's not justified—is that CN is federally regulated.

[*Translation*]

Mr. Mario Laframboise: It is difficult for us to make a recommendation about the speed limit if the community is represented by its government. When the mayor of Montmagny, in Quebec, asked us for a speed limit reduction after several accidents, we heard him and made a recommendation. However, the B.C. geography is such that the speed limit in mountain areas should probably be lowered.

Quebec mountains are different from yours. If you have a different geography requiring different regulations, you should be asking for such regulations. If you don't, you would have to accept the accidents that are presently taking place. This is the message that has to be delivered to the B.C. government.

It is difficult enough to make a recommendation relating to a specific area without the consent of the province. We would rather have an agreement with elected representatives before making a recommendation.

I would put that question to Mr. Kosinski and Mr. Cotie who mentioned speed limits. Do you believe that a change to the regulations governing speed limits in a region such as British Columbia is the solution? I know there are other things, but would it be a major part of the solution if we consider regulatory changes?

• (1615)

[*English*]

The Chair: Mr. Cotie.

Mr. Todd Cotie: I can't speak much for B.C., because I'm from Ontario and I don't understand the hills very much. But reducing the speed, in particular in towns—I know that's been lobbied a little bit through Quebec—by our crews can be done. I understand the burden CN may say that will put economically, but I live in Capreol, Ontario, which used to be a hub for railway traffic. It's a little bit reduced now, but there's a yard there. And I watched these multi-million dollar trains sit in the yard for an hour or two, maybe three hours, waiting for train crews, etc. So you can't say that the delay caused by the reduction in speed would be much of a problem if it's going to increase the safety when hazardous materials are being run or if it's decreasing the likelihood of a derailment.

CN would not purposely put a train over a defect in the rail at 60 miles an hour. They reduce speed to 30 or 25, and they have to deal with that until the problem is corrected. They put these trains that aren't inspected as much as they'd like you to think, especially during a night shift when these guys are working, by at the maximum speed that track allows at all times, without even considering that. And these trains, as I said, are sitting in the yards and there are delays there too, which nobody likes to mention.

The Chair: Mr. Kosinski, have you a comment?

Mr. George Kosinski: I think what Todd was saying about reducing speed limits around work crews certainly should be taken

into consideration. Generally speaking, I'm familiar with pretty much all the track in western Canada, with the exception of the track formerly owned by B.C. Rail, and my impression was that the speed limits were overall quite well designed. I didn't find any that were excessive. And while there are some areas where it seemed like the speed limit maybe was a little lower than it could be, generally speaking they seem to be pretty good. But of course that's all based on safe track, proper equipment, brakes that work properly, cars that have round wheels and not square wheels, and so on and so forth. So of course all these considerations have to relay back to the actual condition of the equipment and the track that's being used.

The Chair: Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thanks to each one of you for coming forward today. This is very important information that you're providing to us.

I'm going to start with you, Mr. Chudnovsky. I'm very sorry that Minister Falcon is not here. He should be here. That's part of his responsibility.

Mr. David Chudnovsky: He would entertain you, I'm sure.

Mr. Peter Julian: I am flabbergasted that the B.C. government is not taking any action. They do have some elements that they could be doing. They could be directing correspondence to the federal government. They're not doing any of that. So I have to ask you, why isn't the B.C. government taking any action whatsoever on behalf of British Columbians?

Secondly, I'd like to come back to the issue of CN. They had their top executives here before the committee last week, and their executive said at first, there's no problem, we've corrected the problem. And then it was pointed out to them that we've actually seen a skyrocketing of derailments in the early part of 2007. They then tried to basically blame everybody but themselves.

So my question there is, do you believe CN executives have any credibility at all now on the safety issue, given the fact that they just refuse to own up to the problems that exist?

Mr. David Chudnovsky: I think the explanation for the B.C. government's inaction on these questions over the last couple of years is mostly ideological. They chose, in my view, for ideological reasons, to privatize B.C. Rail. Many, if not most, of these problems have taken place on the old B.C. Rail track and lines.

As you well know—I know Mr. Julian knows, maybe other MPs here know, and Mr. Bell certainly knows—the privatization of B.C. Rail was very controversial at the time. It went against a commitment that had been made by the premier. That move continues to be very controversial, and there's a major court case now.

•(1620)

Mr. Ed Fast (Abbotsford, CPC): On a point of order, Mr. Chair, I have to interject here because for the last few minutes we've seen Mr. Julian, and certainly Mr. Chudnovsky, start to get into matters that are truly before the courts, and when matters are before the courts, this committee generally does not comment on them. The whole issue of *res judicata*, which we've had reviewed at this table at least twice since I became a member, clearly indicates that matters that are before the courts shouldn't be the subject of discussions at this table.

I notice that Mr. Julian keeps pushing it into a debate over provincial politics in British Columbia. I understood this was about safety, and I really would like to get back to safety rather than all the political machinations that Mr. Julian and Mr. Chudnovsky want to concoct.

So I'd ask your ruling on that.

Mr. Peter Julian: Mr. Chair—

The Chair: Mr. Julian, on the same point of order.

Mr. Peter Julian: Mr. Fast is well aware that this is part of the dynamic and discussion around safety. So I would ask you, Mr. Chair, to please calm him down so he doesn't intervene and try to stop what this committee should be doing, which is looking into safety aspects. This is an issue of the public domain and safety and it's very important—and he knows that, coming from British Columbia.

The Chair: Thank you, Mr. Julian.

It is not a point of order, and I would ask the questioning and answering to continue, please, Mr. Chudnovsky.

Mr. David Chudnovsky: Thank you, Chair.

The provincial minister has, on many occasions, chosen—which is his right, of course—not to speak out on the problems that CN has faced over the last number of years in B.C. It's my view that that's an ideological choice he's made; others may see it differently.

With respect to CN and credibility, I think it's a very, very important question, and one that we need to take seriously and I would encourage CN to take seriously. It is the case, I believe, that CN has very little credibility in British Columbia with respect to safety. That's because, as the derailments have continued and as the tragedies have struck Wabamun, Cheakamus, Lillooet, and others, the response of CN has continued to be that it isn't a big problem; we're getting better; just wait, everything is going to be okay; you're exaggerating; it's accidents, not incidents. You've heard it all, chapter and verse.

So it seems to me that a major entity like CN is in a position now where there is very little faith in their credibility as they explain and engage with lawmakers and with the public about their decisions. It is a problem, and I think one would want to encourage CN to make other choices with respect to their participation in the discussion and in the debate.

Mr. Peter Julian: Thank you for that.

I'd like to read a quote from Mr. Gordon Rhodes, who appeared before our committee about two weeks ago. He said, "...there's a lack

of proper enforcement going on. I think that Transport Canada has dropped the ball. And I'm not pointing fingers at individuals; it's the system."

We have this safety management system in place within the railway industry. The government is trying to push the same thing within the airline industry. I guess our concern is that the SMS is a contributory factor to the whole issue of railway safety.

Is this not, as you've pointed out, Mr. Cotie, a way of rewarding CEOs for bad behaviour, to put in place an SMS system where they can essentially balance off safety to increase their profits?

I'd like to ask all three of you that question around SMS and safety.

Mr. Todd Cotie: And SMS is...?

A voice: It's self-regulation.

Mr. Peter Julian: Yes.

Mr. Todd Cotie: Is the bonus they're receiving being...? Okay, here's how I can put it regarding the issue of the slowing down of trains.

I was just at the policy committee. This is a joint effort between unions and management to table issues. The company has been balking at my bringing this issue to the table, saying it hasn't been properly escalated. The reason it hasn't been properly escalated is that it's been ignored. It's been brought up at the grassroots level through the workers. The mud in the middle that Hunter Harrison likes to talk about is where it's getting lost, and that's the front-line supervisor being under enormous pressure to produce. Safety becomes secondary. The issue at the grassroots level does not get escalated.

A similar thing happened with a defibrillator. We've had a couple of employees die of heart attacks in isolated areas in northern Ontario. We thought it made sense to have a defibrillator on the gang in these isolated places where they're two hours away from a hospital. They told us we had to have 300 people in an area to justify having a defibrillator. We have 20 or 30 people in the middle of absolutely nowhere who have no access and would be dead before they got to the hospital, and they wouldn't put a defibrillator there because it hadn't gone through that escalation process.

•(1625)

Mr. Peter Julian: So when you don't have Transport Canada oversight when you cut back on the number of inspectors and simply tell the company to take care of safety, do you see that as a dangerous development?

Mr. Todd Cotie: Absolutely, because they have ulterior motives in every regard. Even the field supervisors have a bonus system that may or may not be based on injuries, accidents, and what not. Their focus, you can tell—you could ask anybody I represent—is always about production, and safety issues get pushed aside as much as possible.

Mr. Peter Julian: Mr. Kosinski.

Mr. George Kosinski: Some people here may be aware of a recent RCMP investigation into police brutality regarding the Vancouver Police Department. The RCMP concluded that there have been a number of serious incidents of police brutality. Jamie Graham, the chief constable of the Vancouver Police Department, decided to conduct his own internal review, which absolved everyone involved in the incidents specified by the RCMP investigation. So I think that's just one good example of the effectiveness of self-regulation.

At the risk of appearing to be cynical, I suspect that probably the essential policy controlling this self-regulation of safety procedures is uphill slow, downhill fast; tonnage first, and safety last.

The Chair: Mr. Fast.

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

Thank you to all three of you for attending.

I'd like to focus my discussion on Mr. Cotie's comments.

Mr. Jean, you had a quick comment you wanted to make. My apologies.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): I wanted to confirm, for the committee, that I have had an opportunity to speak, directly and indirectly, with the minister from B.C. and many other MLAs from B.C., including Mr. Thorpe of Kelowna, over the summer, and I've had discussions with him about rail and other safety issues. So I just wanted to clarify that particular comment made by Mr. Julian, to let the committee know we have been in discussions with them, and they are concerned with rail safety and other issues.

Mr. Ed Fast: Well, thank you.

Mr. Chair, I'm going to focus my remarks. I'm trying to be constructive here. I'm sensing there are some political axes being ground at this table, and I'm not sure that serves the issue of safety well. I think we're trying to all work together to improve safety in our rail transportation system, and I believe every member at this table has articulated serious concerns about the state of railway safety in Canada.

Again, Mr. Cotie, thank you for attending. You made the comment in your introductory remarks, and just reiterated it again, that the CN culture values productivity over safety. What I'd like to do is read to you the counterpoint that we heard from CN itself. There are two quotes, and this is out of their CN submission to the Railway Safety Act Review Panel.

The statement was that "...we view safety as every employee's responsibility, and work diligently to create and improve a culture of safety awareness and safe practices." Then it goes on to say that "... CN has always placed the highest priority on safety. Safety is one of the five Core Values of the company."

Of course, that stands in contrast with what you've said, and quite frankly, I wasn't satisfied with the response we had from CN. In fact, let me quote you something else that Mr. Creel, who was representing CN, stated, and this comes right out of a transcript of our last meeting. This is quoting Mr. Creel. He said, "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."

That was in response to a question I had asked him. I had asked him whether there were different standards in the United States and Canada, and perhaps in British Columbia. He seemed to indicate, in response, that wherever the standard was greater, they applied that standard.

I specifically asked him about this whole issue of taking bad-ordered cars and putting this notice on the car, and then afterwards supervisors would come along, take those notices off, and the cars would actually be repaired to the lower standard. I don't believe he had an adequate response to that. He simply claimed that they had the highest safety standards.

I'd like you to go a bit into this whole issue. Did you experience this whole issue of the bad-ordered cars having labels removed that would have required them to be repaired to a higher standard? Is that something you're familiar with?

•(1630)

Mr. Todd Cotie: No, I'm a maintenance worker. I don't deal with transportation per se.

I can speak to that issue a little bit, whereas they take the higher standard.... The reason we pushed for the 30 miles an hour by those sleep cars is that CP had a higher standard, and it took two or three years.... And they've had that forever. It's just that it came to our attention that CP had this standard of 30 miles an hour. We were requesting that there be slower trains by these boarding cars, where people sleep on track, and finally that's what got us that 30 miles an hour, but it took a lot of convincing. Another railway had it.

It's not a regulation; it was a voluntary thing by CP. I don't know why it was introduced, but I'm sure there was some sort of incident that brought it to that. It took two or three years of our committee's fighting for that to get that done.

As for the bad orders, I don't know that.

Mr. Ed Fast: Mr. Kosinski, can you shed any further light on that? Was that happening back when you were a train engineer?

Mr. George Kosinski: It may very well have been happening, but running trades employees wouldn't be privy to that kind of information. They're just sitting on...what used to be the caboose, waiting to leave the yard, and they aren't really aware of the activity taking place with the carmen regarding bad-ordering cars and so on.

So it may very well have been occurring on a regular basis, but we would not have been aware of it. But who knows? Maybe that was the cause of some derailments—bad-ordered cars that never should have been on the road.

Mr. Ed Fast: All three of you have focused your comments on CN. Is it safe to say that CP and some of the other private operators in Canada have a better safety standard or a better safety record, or apply SMS in a more appropriate way?

Mr. George Kosinski: My impression, just from what comes out in the papers, is there seems to be a lot more CN derailments than CP derailments. But again, I believe Mr. Rhodes was a CP engineer. Is that correct?

Mr. Ed Fast: He was CN.

Mr. George Kosinski: Anyway, when this accident happened in Trail, that actually made me wonder whether CP's commitment to safety is any greater than that of the CN management, because—

Mr. Ed Fast: That just happened last week.

Mr. George Kosinski: Yes. If that train could have been kept under control, if the locomotive had been equipped with dynamic brakes, not only would it have prevented the derailment, it would have saved somebody's life.

I haven't yet been able to establish whether that locomotive did or did not have dynamic brakes. But if it did not, that definitely seems to display a reckless disregard for safety on the part of management.

Mr. Ed Fast: Mr. Cotie, do your members work for both CP and CN, or just CN?

Mr. Todd Cotie: Now it's just CN.

Mr. Ed Fast: It's just CN. So you can't speak from experience about the—

Mr. Todd Cotie: Not about CP. It was very similar when we shared the same union, but now we don't. I'm not very familiar with CP anymore.

Mr. Ed Fast: All right.

Mr. Chudnovsky, can you shed any light on that?

Mr. David Chudnovsky: I can maybe add one small element with respect to your question.

I hold no particular beef with CN or CP, but over the last two years I have had the experience of having a look at the reports, the press releases, the statements made by both companies after there had been incidents. It's an instructive exercise, and I encourage members of the committee to do that. They're quite different. There's quite a different attitude and a different tone expressed in those reports, those press releases, and in the information that comes from the companies.

My experience—and again, I haven't done a review of all of them, but I've looked at a number of them—is that the CP ones are much more engaged with the community and much less defensive; there's less of simply saying it's somebody else's fault. It's not a scientific review, but I have seen it in a number of the issues in B.C.

• (1635)

Mr. Ed Fast: I have to interrupt you, because I have one last question.

There was an exchange between Mr. Chudnovsky and Mr. Julian about what's happening in B.C. The testimony we had from Mr. Rhodes, and Mr. Holliday as well, both of whom I believe are employees of CN, indicated that the toughest standards are actually in British Columbia. They're provincial standards. Those standards used to apply to B.C. Rail before it was taken over by CN. They were decrying the fact that B.C. Rail no longer had to comply with the standards in British Columbia.

Am I correct in understanding that?

Mr. David Chudnovsky: Yes.

Mr. Ed Fast: And yet I heard you complain about what's going on in British Columbia and that there was something untoward there. I think we can at least look to British Columbia as an example of a set of standards that perhaps could be emulated across the country to improve the level of safety in the industry.

Thank you, Mr. Chair.

The Chair: Mr. Volpe.

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

Mr. Peter Julian: Those are NDP standards...[Inaudible—Editor]

Hon. Joseph Volpe: Peter, on occasion people have been tempted to accuse you of having talent, but I don't think you have enough to replace Mr. Volpe yet, so please allow Mr. Volpe to do it himself.

All kidding aside, there are no politics here.

I was quite intrigued by your presentation, Mr. Chudnovsky, and those of the others as well.

Last week when we had CN here, they made two observations that I'd like you to comment on. One was that weather factors have contributed to what appears to be an increased number of accidents. The second was that the culture of safety had not yet permeated the employees in the organization to the extent that CN had been attempting to put in place. I hope I'm not misrepresenting their case, but it seemed to me that those were two themes that came out of the explanations.

Now, I'm one for having discussions on an ideological basis, but I don't think that has a place here. But you appeared to come forward with a discussion about B.C. Rail having, with its employees and safety management practices, a standard that is far superior to that of CN. I find myself a bit like the ball that's being batted on either side of the net.

Would you care to comment on that? Give me an indication as to whether I'm off track—pardon the pun—in thinking in terms of getting standards that appear to be rather objective and making a decision on that basis, or should I just weigh what you say and what CN said as being two parts of an ideological discussion?

Mr. David Chudnovsky: Let me deal with the second question first.

What I can tell you is that since the Cheakamus accident, which is, what, almost two years ago, dozens and dozens of people who work on the rail—the former B.C. Rail line, the current CN line—have contacted me. I didn't go out to find them; they contacted me, because I'm the transportation critic in the province. Without exception, their view is that safety standards have suffered since CN took over. That's my report to you. We can itemize that if it's helpful to you.

CN clearly takes a different view.

Hon. Joseph Volpe: Did any of those people suggest to you that weather conditions—and I'm not being trite here—are a major factor in safety on those lines?

If you can't answer that, maybe Mr. Cotie might be able to.

Mr. David Chudnovsky: No, none of them did. The one issue with respect to weather that was brought to my attention was with respect to patrol cars. Mr. Rhodes talked to you about that. These gentlemen talked to you about that.

I have heard, independently of all of that, from a number of people who work for CN and/or worked for B.C. Rail that the number of and frequency of the use of patrols going ahead of the locomotive during bad weather has decreased. That, I can tell you, has been reported to me.

If I may make one more general proposition to you, it's this. We need to be understanding of the fact that railroading is a difficult operation to do, and we do need to be understanding of the fact that bad weather is a contributing factor to problems that people have in running the railways. But I hope that CN isn't telling us that if there's bad weather, it's okay to have accidents.

•(1640)

Hon. Joseph Volpe: I'm not sure that's what they're saying.

My staff took the trouble of tracking weather conditions over the course of the previous 10 years, when they heard that. They said, "Mr. Volpe, maybe you'd better understand the weather." So I'm looking at their very hard work and I'm at a little bit of a loss to understand why somebody would make that observation, given the weather fluctuations or lack thereof in the last 10 years. I'm just wondering whether we missed something, or whether you have a different view, that weather, as I asked of CN, is a factor that a proper management system would take into consideration and apply the appropriate techniques or technology to?

Would that be your experience, Mr. Cotie?

Mr. Todd Cotie: Again, with weather, I don't operate trains and am not very familiar with this. As an observer, I know that in extreme weather conditions, at minus 30 degrees, different rules apply. Railways can't operate the same length and weight of trains at minus 30 or 40 degrees as they can in better conditions, because of their air system. It's the same as at plus 30 or 40 degrees Celsius—that's the rail temperature. It has a tendency to kink. So I believe there are rules that apply there for trains. There may even be a reduction, because out of the blue you can have rail kinks and things like that in extreme weather one way or the other, and you have to consider air systems.

But I don't operate trains, so I'm not an expert on that.

[Translation]

The Chair: Mr. Carrier.

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

My first question is to Mr. Cotie. Could you please tell us what you do exactly at CN Rail?

[English]

Mr. Todd Cotie: I'm a health and safety coordinator. I represent the union. It's a joint effort, but my salary is paid for by CN Rail. I act as a liaison and I sit on the health and safety policy committee that I was mentioning, where I'm not getting the issues because they're getting caught in the mud in the middle.

That's my position.

[Translation]

Mr. Robert Carrier: So you are not involved in train operations, as a superintendent or a supervisor would. You sit on a health and safety committee.

[English]

Mr. Todd Cotie: Yes, for 12 years I was a maintenance worker, a machine operator, the guy who cleared snow on the track or things like that—spikers, on maintenance crews. This is a position I've had just recently.

[Translation]

Mr. Robert Carrier: All right.

I want to get back to the safety management system that others, including my colleague, talked about earlier. I believe this system was put in place by Transport Canada in 2000 and has been implemented by CN Rail for the past five years. We were told about a system that enhances safety and was applied in cooperation with Transport Canada to make sure the company has an adequate safety management system. We were also told that inspections are still being carried out by Transport Canada inspectors.

Is this the situation, as you perceive it, in your company?

[English]

Mr. Todd Cotie: I'm not sure of the frequency of their inspections. I have worked in local areas where track inspectors inspect it every second day, and then, depending on weather conditions, maybe every day.

My point was about slowing trains down. In that area, when we're working a night shift, there are fewer inspections at night, and these things happen like that. At minus 40, a rail can break fairly easily, and the track conditions aren't being inspected always...maybe daily, maybe twice a day, but not always.

•(1645)

[Translation]

Mr. Robert Carrier: So inspections are being carried out. The management system is based on self-regulation, as Mr. Chudnovsky said. The company manages its own safety.

Did you see how this system is applied in companies? Can you confirm all the improvements it brought about, apart from the inspections?

[English]

Mr. Todd Cotie: I can't say that allowing CN to govern their own safety has worked. For example, the contractors are allowing the company to wash their hands of the liability. They may manage us, as unionized employees, but not the contractors. We had an incident in which one of our employees was dismissed for not abiding by the drug and alcohol policy of CN. He was working unsafely. So he was dismissed, and then he came back on the property as a contractor, and he was on the property for—I don't know—six months before anybody saw this. He wasn't good enough to work as a CN employee, but he was hidden through the contracting system.

So CN, through that, can wash their hands of that type of thing.

[Translation]

Mr. Robert Carrier: Thank you. This is somewhat disturbing as it relates to this safety management system. And they are considering implementing it in air transport.

I want to get back to what Mr. Chudnovsky said about the sale of B.C. Rail. You give us examples proving that the sale of B.C. Rail to CN Rail led to the lowering of many safety standards, such as dynamic brakes, that the department had to reinstate later on. You can almost conclude that the safety requirements of Transport Canada, which is the department that we, as parliamentarians, have to count on to apply these standards—It seems to me that this sale has considerably reduced safety and that Transport Canada tolerates this situation.

Is this accurate?

[English]

Mr. David Chudnovsky: I think that's correct, and that is what has been reported to me by people who do this work in our province.

[Translation]

Mr. Robert Carrier: Thank you.

[English]

The Chair: Thank you.

Mr. Watson.

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

Thank you to our witnesses for appearing.

Where to begin here? Of course, we did have CN before the committee last week. I didn't find their testimony particularly helpful.

Mr. Cotie, you said CN thinks that accidents are the fault of bad individual workers. The union's perspective is that the change needs to be made at the top in safety culture. I'm inclined to believe you after CN's testimony here last week.

They performed what they said was an efficiency audit. I was rather alarmed that they don't call it a safety audit. I think that's probably some indicator into the culture at CN. I hope we're all alarmed that they call it an efficiency audit rather than a safety audit.

They said there was massive failure among workers to comply. They were alarmed at how widespread it was. I had contended with them that if there was that much failure to comply by workers, that's a systems problem, that's higher up—those who actually have oversight of the workers.

I don't know whether any of you can lend some insight into this. Perhaps the union would have some understanding of it. If I have the wrong union, maybe it's a union out west.

I asked the question, how many workers have been disciplined for safety problems? As well, I asked, how many middle or upper management have been disciplined over safety problems? They didn't provide that kind of information to this committee. Can you shed some light on that? I'd be interested to know who in fact is paying for the problem with the safety culture at CN.

Mr. Todd Cotie: They don't necessarily say they discipline for violating...well, I guess what it means is that even if they injure themselves, they'll find a way to discipline the employee because it's their fault. "Human behaviour" is the catchphrase right now. It's human behaviour.

I was told before the vice-presidents came here, because I was in that health and safety meeting, that had the employee who got killed in Cornwall done her train inspection properly, which is a rule violation, she would have lived. You would get disciplined for not doing that inspection. She died.

Now, they would talk about this for five or ten minutes, but it was never brought up.... I did bring it up. I said, "Why was she working by herself?" This is a case of a lone worker. Had she been with somebody else, likely she would have been alive. They would have done their inspection. There would have been more sets of eyes and things like that. But that's the kind of thing I'm saying: it's our fault.

As for the rule 42 that I was talking about, the flagging system, the entire onus of that system is based on the employee getting out of the way. The operational part is non-existent. That's why we're asking for the slowdown. I mean, the thing there is that you could die if you don't get out of the way.

• (1650)

Mr. Jeff Watson: Can the union be of any assistance in getting some of those numbers to this committee?

Mr. Todd Cotie: Sure.

Mr. Jeff Watson: I'd appreciate that.

I asked a question of Mr. Creel about CN's GOI. We had heard from Mr. Rhodes before this committee that safety used to be number one when you flipped open your book for the GOI. He says it's now number four.

I asked the question to Mr. Creel. He then sent an e-mail to this committee—Mr. Chair, I believe you've received it as well. He says, "As Mr. Watson requested..." and he quotes something out of the "Canadian Rail Operating Rules", as if that's what I requested. That's not what I requested. What I requested was what does their GOI show.

I presume CN won't be forthcoming if I ask them again to give me another copy of that. Can the union be helpful in showing us what it actually says? Where does safety really...? I want this committee to see with its own eyes—

Mr. Todd Cotie: In the general operating instructions?

Mr. Jeff Watson: Yes. And can that be tabled with the committee at some point, in both official languages, so we can have it?

Mr. Todd Cotie: I do have it. This is a book. This is basically the request to slow trains down.

I take a lot from the GOI. The emphasis is on safety. The employee is responsible. The supervisor is responsible. The same language is in the Canada Labour Code. You'll see that in the GOI.

Actually, if you want, I think I have a copy of the GOI in this bag, so that can be easily done for you.

Mr. Jeff Watson: I think the committee would like to see that, because we certainly want to verify who's telling the truth on this one, whether it's Mr. Rhodes or whether it's CN. I'd love the committee to be able to determine that.

Last, I asked the CN officials whether they would admit that they had broken trust with Canadians. We got a very interesting reply from Mr. Creel. He said, "I acknowledge that the perception is certainly there that we've broken trust with Canadians." I don't think that gives an awful lot of confidence to those within the organization that CN in fact embraces a safety culture.

Now, there's a Railway Safety Act review under way. Is there any insight for us at the committee on what should be informed in that? Do you have any recommendations? Or if you'd like, in the future you could certainly send them to this committee. We'd be interested in your thoughts on informing that process for us.

That's all, Mr. Chair. Thank you.

The Chair: Thank you, Mr. Watson.

Monsieur Bélanger is next. He has given his time to Mr. Bell.

Mr. Don Bell: Thank you.

We had a report from a railway worker, a conductor in North Vancouver, in fact, who had provided some material. Some of the issues he talked about related to B.C. Rail, and it's covered, Mr. Chudnovsky, in one of your reports as well. He said that B.C. Rail maintained a joint derailment prevention task force consisting of senior management, union reps, and government regulators, which met quarterly to discuss derailment prevention strategies and review derailment reports, and that CN cancelled this.

That concerned me, with the combination of the difference in terrain and basically applying what appears to be a GOI suited to water-grade railways, or to more or less level railways that follow the levels of the rivers, in B.C.

What concerned me as well was that when they had the spikes they did have, particularly in the west, they didn't seem to respond fast. They responded, but it looks, in my opinion, as though it wasn't fast enough and wasn't identified.

The phase two audit reported that there were systems in place, and an adequate system, I think it said—I don't know whether the word "adequate" was used, but it implied that there was a good system in place—to report things. It's a question of the follow-up, between when the thing gets reported and the action is taken to respond to the problem.

I don't know whether Mr. Kosinski or Mr. Cotie have heard or would comment. I guess you're not able to talk about B.C. as such, but when we hear about these other derailments, such as in Ontario—yesterday, I think it was, and there have been other derailments as well—it doesn't appear to be only CN. CN seems to be the one we've heard most prominently about, and the audit, of course, was there.

The final question, Mr. Chudnovsky, is this. You mentioned that you had asked for four different packages of information and got one of them. It was frustrating for us, because under Mr. Lapierre, the federal Minister of Transport in the previous government, these audits were ordered and were going to be made public, and then they

weren't. I gather that's for a combination of reasons—perhaps the Railway Safety Act, under which the approval of the railway is apparently needed to release some of this. It was very frustrating. I don't know whether you have any comment on that.

• (1655)

Mr. David Chudnovsky: On the question of the release of the audit, what we were told, for what it's worth, is that, yes, the audits were to come at the end of, I think, 2005. Then there was a federal election campaign.

What I'm reporting to you is what our researchers heard from Transport Canada or the Transportation Safety Board.

We were told that the audits were late but were completed by December 2005, and that somebody had made the decision that because there was a federal election and they didn't want it to be grist for the political mill, it was going to be delayed.

Then when the election was over—I think the election was in January, if I remember correctly—our staff basically asked the question weekly: when is the audit coming? Eventually they were told that the new minister needed to be briefed on the audit and that after the briefing the audit would be made public. After that, we were told no, the audit isn't going to be made public. It was then that we made the access to information request, which subsequently this year resulted in the making public of the audits.

Mr. Don Bell: Are there comments on the joint derailment from the other gentlemen? Do you have any familiarity with the B.C. situation on that derailment task force?

Mr. Todd Cotie: I'm not familiar with this.

Mr. George Kosinski: Neither am I, but I can say—this just occurred to me—that before CN took over B.C. Rail, I'm not sure I ever heard of a derailment on B.C. Rail. They certainly seemed to be quite rare, if they had them at all.

Mr. Don Bell: Would you gentlemen say that safety management systems, as outlined in the phase two report, would seem, if implemented properly, to be an effective way of addressing rail safety; that it's a question of whether they're acted upon and implemented correctly?

Mr. George Kosinski: It's possible, but there would have to be clear motivation to implement them, a motivation that I believe would have to be provided by an external source.

Mr. Don Bell:—such as legislation or the Railway Safety Act: accountability.

The Chair: Mr. Jean.

Mr. Brian Jean: Thank you, Mr. Chair, and thanks go also to the witnesses for coming forward today and providing evidence.

Mr. Chudnovsky, I read your report, the one you provided to us, and I have to say that I appreciated it. I noticed that several of your points, one in particular, dealt with dynamic brakes. Indeed, you've given as your testimony and said in this report as well that you think the lack of dynamic brakes, or their being taken off, was a real participant in some of the crashes.

Is that indeed the case?

Mr. David Chudnovsky: What I said is that it had been reported to me, as it has been, by many people who work on the railway that it was their view that this was a problem.

• (1700)

Mr. Brian Jean: You know now that in fact Transport Canada issued a requirement for CN to use those on certain portions of steep terrain. So has that been remedied now, as far as you're aware?

Mr. David Chudnovsky: I know that there's been an order, and that's a good thing.

Mr. Brian Jean: The same thing goes with length of cars. Indeed, you've suggested that some of the problems that have taken place have been as a result of car lengths going upwards to the range of 144 cars in certain areas. Again, you feel that's part of the problem, or has been in the past?

Mr. David Chudnovsky: As I said before, that's what those who... I don't pretend to be a railway expert, but as part of my job, I have been approached by many folks who said right away that this was a problem.

Mr. Brian Jean: And indeed, these were two of the 76 enforcement orders or actions taken by this government in the last year—these two measures that are going a long way towards safety, in your estimation.

Mr. David Chudnovsky: Well, the orders were made, that's for sure.

Mr. Brian Jean: And it's a good thing for the rail industry and the safety of people in B.C.?

Mr. David Chudnovsky: That the orders were made? Yes, absolutely.

Mr. Brian Jean: Great.

Now, you went on to identify some other safety standards in rail yards. I note that you mentioned in your report that you've talked to hundreds of former employees. What do you believe are the largest problems with rail safety in the yards themselves?

Mr. David Chudnovsky: Frankly, I'm not able to tell you what the largest problems are. I can tell you that these that are itemized are problems that have been identified to us by more than just one person. We've heard from a number of people who work on the railway, and these are the ones we've heard about the most.

Mr. Brian Jean: In my former life, I cross-examined people. I'm not here to cross-examine you; I'm here to find out what you think are the good things and the bad things that are consistently going on.

You mentioned that the good things were some of the orders that have been put in place by this government.

Mr. David Chudnovsky: Yes.

Mr. Brian Jean: What do you think of the review by the independent panel of the Railway Safety Act?

Mr. David Chudnovsky: I think that's a very good idea.

Let me mention, Chair, that I think one of the best things that have happened is this committee, and I said that right away. In response to some comments that have been made previously about my role here, let me say that I wrote, as the chair and the clerk will know, immediately when this committee voted unanimously to hold these

hearings, to congratulate all of you. Notwithstanding our disagreements on small extraneous issues about all kinds of other things, I think it's terrific that this committee has taken it upon itself to hold these hearings. I applaud all of you, each of you, for having done that.

Yes, a review of the act is a good thing. Let's see what happens.

Mr. Brian Jean: So indeed, you're applauding the minister for having an independent review. Is that what you're suggesting?

Mr. David Chudnovsky: I'm saying that a review is a great idea —

Mr. Brian Jean: Great.

Mr. David Chudnovsky: —and that the proof of the pudding will be in the eating.

Mr. Brian Jean: As it always is—in the taste.

You've also mentioned fatigue as being part of the issue in what's been identified by some of the employees, and I'd like to hear more about that. They've extended the hours from 10 to 12, and I understand that some other ramifications, as well as speeds while going past sleeping cars and things such as that, might play into the general fatigue problems.

Mr. David Chudnovsky: We've heard from a number of railway employees that the extension of hours is an issue and that people are away from home. We've also heard about the issue Mr. Cotie mentioned, on the condition of facilities for people to sleep in when away from home, and all of those issues. There was a bundle of them, if you will, described to us by employees as contributing to their concerns.

Mr. Brian Jean: Thank you very much.

Mr. Cotie, very quickly, what are your feelings about what's happened with the railway safety review and the 76 enforcement actions taken by this government?

Mr. Todd Cotie: I actually applaud this committee, because we've been conveniently tucked away in the middle of nowhere for years and we haven't had a lot of press. Nobody was really concerned with the railway unless you had a derailment in Cobourg that was in somebody's backyard. You don't see the derailments in northern Quebec or northern Ontario, which absolutely no one sees. You don't see workers go into these places to fix the rail, and they're up for 24 hours to try to correct the situation. They have no real medical facilities. They're overtired and fatigued. They work 10 days away from home, they're back for four days, and things like that.

There are a lot of things that can be done. I think being here is a good step in the right direction.

• (1705)

Mr. Brian Jean: Mr. Cotie, to be clear, the minister is the only one who issued the enforcement actions or, through the department, sent those enforcement actions. He's the one who ordered the review of the Railway Safety Act. What do you think about what his review has done, or his order has done?

Mr. Todd Cotie: I'm not completely familiar with the review, but I know this is a good step in the right direction. The more we can investigate and maybe add regulations to the railway or recommendations that go in that direction, the more beneficial it is.

Mr. Brian Jean: Thank you very much.

The Chair: Mr. Zed has generously given his time to Mr. Volpe.

Hon. Joseph Volpe: Thank you, Mr. Chairman.

I note that whenever you introduce me, it's always because somebody else is being kind to me. I'm hoping the kindness flows from the committee's work rather than anything else.

Mr. Cotie, I noted your response to Mr. Jean's question. You must have been elated when the previous government, the Minister of Transport, asked for exactly that. But the report wasn't released, and you must have been confused. If you're excited about another investigation getting started without the reports of the first one or indeed the second one, you must be seriously holding your breath.

While you grapple with the response, let me ask Mr. Kosinski this, because he didn't have a chance to answer my question when I was last up.

When you look at some of the causes, I know everybody's been focused on B.C., and that's fair. But this committee is trying to grapple with safety management systems and safety in railways. It must be scratching its collective head about why Canadian Pacific and VIA Rail don't have the same rate of accidents.

Mr. George Kosinski: Well, with VIA Rail, it's pretty understandable. The equipment is much lighter and the trains are much shorter. It's primarily the explanation for lower accidents on VIA Rail trains. Of course, the longer a train is, the heavier it is, and the more likely it is to have an accident.

As to why, if you're suggesting that CN has a lot more derailments than CP, I can only speculate as to what the reason might be. Perhaps for some reason CP has a more serious regard for maintaining a suitable safety margin in train operations. I can only speculate with regard to that.

I think there are a couple of important points about discipline procedures that need to be addressed now.

When Mr. Watson was speaking with Mr. Cotie, I suddenly remembered that at one time I was disciplined because it was 30⁰ to 40⁰ below zero, and I had to open a switch to do some switching in the yard. When it's that cold, quite often the only way you can get the switch to open is to kick the handle on the switch stand. I did it all that time. Everybody did it all the time. There would be no trains running if you didn't do that when it's 30⁰ below zero.

On this particular occasion, I injured myself. I reported the injury because I thought I might have cracked a rib. I wanted to be sure I had put in an injury report in case I had to take time off from work, which it turned out I didn't have to do. But I was called in for an investigation and awarded demerits for having injured myself by kicking the switch stand.

Hon. Joseph Volpe: And that wouldn't happen now?

Mr. George Kosinski: I have no idea. I haven't worked since 1989.

But at the time I was working, if I was called for a trip and I didn't want to make it because I felt unfit, it was basically no big deal. I worked a lot. I always worked when they wanted me and I felt that I was fit, which was most of the time. The scheduling procedure is

guesswork: you're expecting to go to work at a certain time, and it turns out you're going in much earlier or much later; you don't get enough sleep, and so on. Whenever I booked off a trip because I simply didn't feel fit to make the trip, it was no problem.

What I've heard from some people I know who are still working for CN is that now harsh discipline is imposed for refusing a trip when your turn comes up. If that's the case, that in itself would be a serious issue regarding safety—essentially forcing employees to go to work when they don't feel fit to do so.

• (1710)

Hon. Joseph Volpe: That raises a different question for me.

I want to attribute all the credit where it's due, but I don't want to allocate negative responsibility where it might not be. I think maybe one of my other colleagues around the table suggested that there might be a level of...I don't want to say indifference—call it tolerance, but very difficult tolerance, on the part of the CN management team for Transport Canada regulations, inasmuch as CN no longer calls itself Canadian National, given that its administrative structure is located in the United States, by and large. Its primary concern is that it operate within the regulations dictated by its American operations, and as a result—and I suppose Mr. Chudnovsky might agree here—some of the safety practices of, let's say, B.C. Rail went a little bit by the wayside once the infrastructure at the managerial level was transferred to an operation that no longer considers itself Canadian.

I realize that now we're going into an area, as you put it, of speculation or ideology or national interest, but I'm interested in your observation. You've talked to the membership and people who are employed by an organization that was employed by somebody else before.

Mr. David Chudnovsky: Thank you, Mr. Chair. I have just two quick responses to Mr. Volpe's question.

First of all, on the issue of scheduling, I wanted to report to the committee that Mr. Kosinski's comments have been confirmed to me by people who I spoke to. On the issue of scheduling when people are tired, and discipline connected to it, I got the same reports.

On the issue of how we explain the result that we see, it is speculation. I certainly don't know what goes on in the heads of CN senior management, but having said that, we had a situation in which the people of British Columbia owned and operated a railway, and now it's owned and operated by somebody else. Things have changed. You have to try to draw some conclusions from that change in reality.

The Chair: Mr. Storseth, you can have a final question.

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

Thank you very much for coming forward today and for your wealth of information.

One of the things on which I would like to have a little bit more discussion is the length of the cars. We understand that speed is definitely a mitigating factor here. Do you consider the length of the cars and the weight of the cars to be very significant factors, as well? If so, is there a level of importance? Is one more important than the other when it comes to the safety issues that are being discussed?

Mr. George Kosinski: I don't think the weight of the cars is necessarily a significant issue as long as the track is in good condition. If there is a rail defect, of course, the heavier the train rolling over it, the more likely it is to fail.

Aside from that consideration, I would say that the length of the train itself is a far more serious problem, for two specific reasons. One is the problem with streamlining that apparently you mentioned in your report: a train tends to want to straighten out the curves, and the longer the train, the greater that streamlining effect. When a derailment is caused by streamlining, of course the longer the train, the more likely that is to occur.

Another problem with train length actually also relates to some extent with the issue of dynamic braking. It is that many trains are poorly marshalled. For purely safety considerations, the ideal way to run a mixed train is with all the loads marshalled ahead of all of the empties, because it's the best way to minimize excessive slack action. Again, excessive slack action is itself a dangerous condition. When you have a mixed train, the longer the train, the more difficult it is to control that excessive slack action. Of course, a simple solution would be to insist that any train leaving a major terminal have all the loads marshalled ahead of the empties.

With respect to excessive slack action, dynamic braking is an extremely valuable tool in controlling train speed, but it also has an ancillary effect in helping to reduce slack action, because if you're going down a grade and you're completely controlling the train just with your dynamic braking and perhaps an occasional minimum application of the train brakes, then the train stays bunched and there is essentially no slack action occurring. However, when you don't have dynamic brakes, you have to first of all, before you can even apply the brakes, stretch it out, so that when you do apply the brakes, you don't suffer severe slack action that may cause a derailment. Then once you've applied the brakes, eventually it smooths out, and now there is no slack action.

Then, if you have to increase the brake pressure.... Of course, once you release the brakes, all that slack action will start to happen again, with the possible exception of unit trains, but on some cars the brakes release faster than on other cars, so you're getting all that slack action activity. Dynamic braking is also of tremendous assistance in controlling excessive slack action.

• (1715)

The Chair: Thank you.

And thank you, gentlemen, for your presentations today and your answers to the questions. As was stated, safety is what we're trying to deal with here, and we do appreciate your comments. Thank you.

Committee members, we're going to take a two-minute recess while our guests leave, and then we'll come back to Mr. Fast's motions.

• (1715)

_____ (Pause) _____

• (1720)

The Chair: Welcome back.

As you know, when we left the last meeting there was some discussion around a motion by Mr. Fast. I know there has been some discussion among the members.

I think everyone is aware of the motion that's before us. Is everyone comfortable on what it is, or do I need to read it?

I know that Mr. Volpe had some comments, and then I'll go to Mr. Julian.

Go ahead, Mr. Volpe.

Hon. Joseph Volpe: Mr. Chairman, I don't want to take up much more of the committee's time on this.

The title here, "Notice of Amendment to Motion", might cause some questions of concern for people, but really this is an amendment—I hope it will be considered a friendly amendment—to the motion that Mr. Fast has on the table. The intention is to draw attention to the fact that irrespective of what this committee might offer as an opinion, the minister still must do something that's very specific and required under parliamentary procedure and under the act.

What this does is say, look, you can clarify what Mr. Fast would like to have clarified by what it says under section B. Secondly, you can do it with the issuance of a directive to Canada Post. And in the interim, under section D, it protects everybody until this issue gets resolved.

There are people who have businesses and there are employees who depend on those businesses. There is Canada Post and its dependants. Irrespective of what they might do or might not do, the fact of the matter is that they're in a position where they can put a lot of people out on the street. Section D says this is the way to prevent that from happening while this thing gets resolved.

• (1725)

The Chair: Mr. Julian.

Mr. Peter Julian: Mr. Chair, I think this is another reason not to finalize any decision today.

Mr. Fast's motion has been brought forward a number of times. The members around this table have said very clearly that they'd prefer to get more information. They're concerned about the impact on rural mail delivery. We have put that position forward. Mr. Fast keeps bringing his motion back, so obviously he hasn't heard.

The amendment from Mr. Volpe may well be helpful, but I would like to take some time; it's very detailed. I'm sure Mr. Volpe has done his due diligence. I would like the time to do the same.

So I would hope that we do not consider the motion or the amendment today, and that we instead give members of the committee time to consider particularly the amendment and look at its implications before we go to any decision on the matter.

[Translation]

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: In the case of Mr. Volpe's amendment, there is a 48-hour notice. We need time to discuss it. About Mr. Fast's motion, my position is still the same. If we are to call Canada Post and the remailers, I would be pleased to discuss this motion. If we have to vote on the motion today, as I have had no opportunity to seek the required answers from Canada Post and the remailers, I would have to vote against it but I will not obstruct the proceedings.

[*English*]

The Chair: Just for the information of the committee, because the motion is on the floor, and it comes back at the request of a member, we do not need a 48-hour notice of motion. This is an amendment to a motion that's on the floor.

That's more for the record than anything else.

Mr. Jean.

Mr. Brian Jean: Mr. Chair, we did receive a fax of a letter from Canada Post Corporation in respect of this particular notice of motion. I'm wondering if all members have received a copy of that.

The Chair: I suspect they haven't. I did receive it, and we have sent it out for translation so that I can table it with the committee.

I have Mr. Fast and then Monsieur Bélanger.

Mr. Ed Fast: Mr. Chair, I believe there are two aspects to this. One is to bring the motion I made back to this table so it can be discussed. The second part of it is, of course, then to discuss the merits of the motion and any amendments that Mr. Volpe or any other member of this committee might make.

So I would simply move that this particular motion be brought back for discussion on its merits on Wednesday, at our next meeting—not the amendment, forget about the amendment, just my motion, because it's off the table right now and needs to be brought back onto the table.

You will recall that at the last committee meeting we had I asked that the matter be discussed there, and the majority of this committee didn't want to put it on the table at that time. I'm asking that it be put on the table on Wednesday for a full discussion of the merits, at which time, of course, the amendment and any other amendments other members of the committee may wish to make would be considered. I believe that's reasonable and in line with what you and I had talked about.

I was hoping to get this back on the table.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Is he moving to table a motion?

Mr. Ed Fast: No, to bring it back.

I wasn't aware the chair could put it on the table without a motion.

The Chair: I think I can clarify this. Because it has been brought back to the committee today, it is on the table. The motion now belongs to the committee and the committee can debate the motion and the amendment as we have it in front of us.

Mr. Ed Fast: Mr. Chair, thank you for the clarification. The confusion was on my part. I would ask that the matter be deferred until Wednesday so we can review this particular amendment Mr. Volpe has submitted.

• (1730)

The Chair: I have Monsieur Bélanger, and then Mr. Julian.

Hon. Mauril Bélanger: Mr. Chairman, I spoke the first time, and I don't know how long you intend to keep this meeting going, but I have a lengthy presentation to make. It's not a filibuster; I think there are some relevant points. I've had time now to look into the matter more fully. I read the judgment of the court of appeal and I read the previous judgment on another related matter. I've read a number of speeches, some correspondence, and I think some points have to be made here.

So if there were to be any tabling, I would suggest we consider tabling this motion until such time as we've had a response from the minister, a response the minister promised in the House about a year ago on the matter of remailers. Indeed, there's an absence of the government's response and position on this matter. If you're entertaining a motion to table, I might want to amend that motion to table so that it reads: "...until such time as the minister has come forward with his report on this matter of remailers".

The Chair: Mr. Julian.

Mr. Peter Julian: I would second that motion from Mr. Bélanger, Mr. Chair. We keep coming back to the same point, which is that we need more information.

The Chair: I think if we're going to do that, I'll probably have to deal with Mr. Fast's motion as it was presented first, and then move to Monsieur Bélanger's.... I'm sorry, yes, apparently Monsieur Bélanger can amend it, and Mr. Julian has seconded it.

Mr. Bell.

Mr. Don Bell: The concern I have is the timing of the action after Canada Post was here. Mr. Bélanger has made reference to it, the court cases, the decisions, and then the actions of Canada Post in telling the remailers to cease and desist as a result of those actions. What I hope we would have, if we want to have a full discussion on this, is that Canada Post would cease and desist from the actions against the remailers while we have a good debate here. I don't know what the government can do, the minister, in asking Canada Post to do that while we have this discussion, because I think it's in the interests....

What I wouldn't want to do, while we discuss and debate this, is have the industry go under, because then it becomes academic what the decision is, a recommendation from this committee and ultimate decision by the government. Perhaps Mr. Jean, as the parliamentary secretary, can indicate whether the minister would be prepared to ask Canada Post to hold off on taking immediate action while we have a chance to have a good discussion and get familiar with some of the things Mr. Bélanger has reported. I'd like to understand the court decisions. I'd like to have the benefit of seeing the letter on Mr. Volpe's proposal that's been received from Canada Post and to be able to allow my friends in the Bloc the time they've asked for to be able to be brought up to date on the issues.

The Chair: Mr. Fast.

Mr. Ed Fast: It seems to me that we're already discussing the merits of the actual motion.

I hear the members of the opposition, including the Liberal members, talking about wanting to consider this more, spend more time debating this, when in fact all we're asking is to maintain the status quo.

If there is a time and place when we should talk about changing that status quo and providing an exclusive privilege on an ongoing basis to Canada Post, that would be great. But right now there are thousands of jobs at stake.

Hon. Mauril Bélanger: I have a point of order, Mr. Chairman.

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

Hon. Mauril Bélanger: Mr. Chairman, the motion to table is amendable, but will you let me know if it's debatable?

The Chair: To defer it is debatable. To table it is debatable.

Hon. Mauril Bélanger: On the motion or the substance?

The Chair: I believe it's on the motion.

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

The Chair: Mr. Fast.

Mr. Ed Fast: Mr. Chair, to clarify, what we're debating now is the tabling motion, which has been amended. The issue there is that the opposition wants to buy more time, they want to do more research, and they want to have a more fulsome discussion at this table, perhaps bringing in more witnesses.

In fact, I'm puzzled, because the Liberals' own leader has come out, with any further information, and said it is their intent to support the continued operations of international remailers within Canada. So he had enough information. Now, I know each member of this committee is independent; they can make their own decisions. But it certainly seems that the official Liberal Party decision is that they are going to be supporting the remailers. It's a position that I believe is reflected on this side of the table. It's also a position that I believe the minister has given some indication he will also take. Yet we can't find some kind of consensus, at least between us and the Liberals, to move forward with this in an expeditious way. To me, that's puzzling.

Let's deal with this on Wednesday, and at least serve the Canadians who presently depend on those jobs, by moving forward quickly to assert the status quo. Then afterwards we can have discussions about whether there's any merit in changing the status quo.

• (1735)

The Chair: I advise the committee that we have run past our hour. I'm going to take three more comments and then make a decision.

We'll start with Mr. Volpe, Mr. Bélanger, and then Mr. Jean.

Mr. Volpe.

Hon. Joseph Volpe: I think all members of this committee are interested in the common good of all Canadians—those who serve and profit by being here.

I note that Mr. Fast has a motion that says: "That the Committee recommend that the Government amend the Canada Post Corporation Act to clarify the English and French versions of section 14 so as to remove Canada Post's exclusive privilege to deliver letter mail to destinations outside Canada". He's a member of the government,

he doesn't need any advice from the committee about which way to go, and the minister can proceed if that's his intention.

In the interest of abiding by the general principle that I mentioned a moment ago, we all have the interest of the common good at heart. I presented an amendment to his motion to be a bit more prescriptive about what the minister ought to do. What the minister ought to do is comply with his authority under the act. In order to provide some prescriptive advice to Canada Post, his authority under the act requires him to act in a particular fashion. That fashion is outlined in this amendment to Mr. Fast's motion.

That's why I thought he might simply say this is a friendly amendment. It gives us an opportunity to address the substance of his own motion, and if the minister is prepared to accept the advice of this committee in a broad statement, such as the one he presented, I'm sure the minister will be equally disposed to accept something more specific, and that essentially reflects the experience of people who have been in government and are trying to understand the predicament that the minister might find himself in, without being partisan about what the minister promised to do in the House and did not deliver, or did not promise and did not deliver.

This is an amendment to the motion that causes me some surprise concerning why Mr. Fast would want to defer until Wednesday, when we have the opportunity to deal with it today.

The Chair: We'll go to Monsieur Bélanger.

Hon. Mauril Bélanger: Mr. Chairman, there are a number of reasons why we have to be very careful.

First of all, in the original motion, which its mover has now asked be deferred to Wednesday, there is a serious flaw. It asks our committee to recommend that the government amend. First of all, it's Parliament that wishes to recommend the amendment of laws. Also, it says "as to remove Canada Post's exclusive privilege to deliver letter mail". My understanding of the remailers was that the dilemma was not in the delivery but in the collecting.

That's one thing. The other thing is that he refers to the letter from my leader, Mr. Dion, as though we are in contradiction to it. We absolutely are not.

Yet he's absolutely right, we have here the ability to make up our own minds. I can't speak for others, but if he reads the letter carefully, he will realize that the leader at no time supported the weakening of the exclusive privilege. I will argue, Mr. Chairman, that if you look at Canada Post, currently there are private enterprises that help Canada Post deliver on its exclusive privilege in rural delivery, for instance. There's nothing preventing remailers from existing within the situation of Canada Post having its privilege and it being respected, as Mr. Jean would have argued a year ago in the House of Commons.

There are a number of factors here that have to be taken into consideration. If he wishes to quote letters from the leader, he's absolutely free to do so, but be prepared to hear some quotes from some of his colleagues around this very table. I didn't realize we were going to get into the substance of that. But tell me when you're ready, because we will. I think members will realize that all parties previously have understood, as the courts have, the link between the exclusive privilege and the universal obligation of service. We have to be careful about tampering with that.

That's what Mr. Fast is asking, and I think to defer without having had the benefit of the minister's response would be wrong. Let's get the minister's response. He promised a year ago that it would be within days. We're a year past that now, and we still haven't seen it. I'd like to see what the government has done on this issue in the last year before we give it *carte blanche*, or a blank cheque, which I am not in the habit of signing, Mr. Chairman.

• (1740)

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

Mr. Brian Jean: I agree with everything said by Mr. Fast. I think we should put it off until Wednesday so we can debate it for 30 minutes, talk about it, and deal not only with Mr. Fast's motion but also with the amendment proposed by the Liberal Party, which we haven't even had an opportunity to really dissect. I see a couple of opportunities for friendly amendments to that too.

I see that as the best opportunity, Mr. Chair.

The Chair: If I may, again at the direction of the committee, I see that we have three choices in front of us. By agreement, we can continue this discussion on Wednesday as a continuation of today's meeting, we can continue to debate today until it is decided and voted upon, or we can debate and act on the motion proposed by Mr. Fast and amended by Mr. Bélanger.

If I were to make a recommendation, I would say that I am prepared, as I did today, to set aside 15 minutes—because we have a full slate on Wednesday—to continue this discussion and hopefully give people a chance to digest the information and come back to find a solution. If not, I'll listen to the will of the committee.

Go ahead, Mr. Julian.

Mr. Peter Julian: On a point of order, Mr. Chair, we have a motion that was amended and seconded. Mr. Bélanger proposed it and I seconded it. So that is what's on the table.

The Chair: Actually, the motion that's on the table is the one by Mr. Fast. Mr. Bélanger's amendment is part of that. If we decide to deal with the amendment and the motion today, we will sit here until we're done with it. We will not be breaking for bells or anything. The committee has the ability and the will to stay here and make that decision.

Again, I've offered three solutions, and I'm recommending that, by agreement, I set 15 minutes aside at the end of Wednesday's meeting to give the committee a chance to have further discussion and to perhaps come back with a resolution we could all agree on. I would ask for that from the committee. If they're not prepared to do that, we can continue the debate until it's over.

Monsieur Bélanger.

Hon. Mauril Bélanger: Why don't we put the questions, and dispose of the motions?

The Chair: We can do that, but the debate has to expire. We cannot demand that—

Hon. Mauril Bélanger: Sure, we'd defer the debate. We don't have to have it today. The motion to defer to Wednesday is the same as to defer until we have a report from the minister. Either way, we'll have a debate at some point.

The Chair: Yes, but the motion put forward by Mr. Fast was to defer it to Wednesday for discussion. You have made an amendment to that motion to defer it until we've heard comment from the minister. If we want to accept Mr. Fast's original motion to defer the debate until Wednesday, we can do that.

Mr. Julian.

• (1745)

Mr. Peter Julian: Mr. Chair, we do have an amendment to the motion, so Mr. Bélanger is absolutely correct, that is what is on the table. Whether or not we choose to continue on Wednesday, that is what we are debating, the motion of deferral until the minister has tabled his report. Whether we vote on it now or we vote on it on Wednesday, that's where we're at.

The Chair: Right. But what I am saying is that the committee has to make that decision that all debate has been exhausted and that we're prepared to vote on that amendment. Again, once we start into debate, which I'm sure will occur, we will not be able to shut down until the debate is finished, unless there's agreement at a later point in this day that says that.

Mr. Peter Julian: Mr. Chair, then I would move to adjourn.

The Chair: The motion by Mr. Julian that we adjourn is on the floor. It is a non-debatable motion, and I would ask all those in favour for adjournment, please raise your hands.

I'm going to just ask that again to make sure. I saw three-three, and I want to make sure I have the right numbers.

Mr. Brian Jean: Mr. Chair, I have a point of clarity, please.

I apologize for missing out on the conversation, if I did, but if we do adjourn, does the motion go to Wednesday to be dealt with?

The Chair: If we adjourn now, the motion comes back at the request of a member or it's decided by the chairman when it can come back, but it doesn't necessarily have to come back immediately.

Mr. Ed Fast: But if I request that it come back at the next meeting, then it automatically comes back. Is that right?

The Chair: It would have to be a decision of the chair or of the subcommittee to put it back onto the agenda.

Mr. Ed Fast: It has to be a decision of the committee or the subcommittee?

The Chair: The chair or the subcommittee.

We are voting on Mr. Julian's motion to adjourn.

(Motion agreed to)

The Chair: The meeting is adjourned.

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