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Chair

Mr. Mervin Tweed

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•(1115)

[English]

The Chair (Mr. Mervin Tweed (Brandon—Souris, CPC)):
Good morning, everyone.

I'm sorry for the short delay. For committees to move in and out takes a few minutes.

Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number 20: a study, pursuant to Standing Order 108(2), of rail safety in Canada.

Joining us today, from the National Automobile, Aerospace, Transportation and General Workers of Canada, are Mr. Jim Wilson and Mr. John Burns; from the Teamsters Canada, Mr. William Brehl and Mr. Mike Wheten; from the United Steelworkers, Mr. Todd Cotie; and from the United Transportation Union, Mr. Garth Bates and Mr. Robert McDiarmid.

As indicated when you acknowledged your willingness to appear today, we're going to have one person speaking from each organization, and you're going to be given seven minutes to present. I will try to keep it reasonably close to that timeline, simply because we have allotted times for questions too, and I know there will be lots of them.

With that, we'll start. Mr. Wilson, are you going to start us off, or your organization? You have seven minutes.

Mr. Jim Wilson (Coordinator, National Health and Safety, National Automobile, Aerospace, Transportation & General Workers of Canada): You were given earlier two submissions. One was a submission to the standing committee, a cursory review that we did; also, you were provided with our comments with respect to the RSA panel recommendations. We have comments on every recommendation, I believe, that was provided to you. That's the submission I'm going to discuss right now.

The CAW of Canada welcomes the opportunity to provide the Standing Committee on Transportation, Infrastructure and Communities with its comments concerning the Rail Safety Act review recently released to the public. The CAW is Canada's largest private sector union, representing over 260,000 members in more than 2,100 workplaces across the country. We have experience with federal as well as provincial railways.

Some 30,000 federal sector workers are represented by the CAW. This figure includes about 11,000 rail workers. Most work for the large private-sector employers, such as CN and CP Rail. Others work for VIA Rail, and yet others work for smaller railway

enterprises such as the ONR, TransCanada Switching or OmniTrax, and Great Canadian Rail Tours or Rocky Mountain Vacations, all of which are federal enterprises. A small number of our members also work for provincial railways.

The CAW rail division includes the former Brotherhood of Railway Carmen of Canada or BRCC, the former Shopcraft Council or CCRSU, and the former Canadian Brotherhood of Railway Transportation and General Workers, the CBRT&GW.

The duties of the approximately 11,000 CAW rail workers include repairing and maintenance of freight car equipment and locomotives, servicing passenger cars, building locomotive consists, crew calling, customer service, operating locomotives, and performing conductors' duties on trains on smaller railways.

In the view of the CAW, this makes us more than qualified to speak with authority with respect to rail safety. In our cursory review of the report of the Railway Safety Act Review Advisory Panel, the CAW has found what we consider to be an outright bias of the panel. The report's first pages thank the railway lobby group, the Railway Association of Canada or RAC, for its input. The panel fails to make mention of any other group that took time to also make extensive submissions to the panel.

In addition to thanking the RAC, the panel pointedly quotes from parts of the RAC submission in its report, but again fails to quote from any other submission made to the panel. Contrary to the panel's report, which in our view tends to downplay the state of rail safety, the CAW believes the state of rail safety is much more precarious than the report would have you believe. In our view, the report has failed in its purpose and mandate.

The CAW has reviewed the recommendations of the RSA review advisory panel and offers our comments in italics after each recommendation of the panel. You have all had this ahead of time. If you want, I can go through every recommendation; if not, we can leave it there and move on.

The Chair: I suspect we wouldn't have time to do it. If you have any other comments, though, you certainly have a couple more minutes.

Mr. Jim Wilson: I think a lot of why we feel the report has failed is because it hasn't dealt with what we believe our concern has always been, which is that when we bring items up to the regulator, they seldom get dealt with.

We believe that the railway companies will get away with what the regulator allows them to get away with. The safety management system in itself is not an end-all. Within the document that was tabled, it almost seems as if they say a safety management system is the system that will help move the railways forward.

The safety management system is just a process on how to manage safety—how to deal with safety on the property—but you also need strong regulations and strong rules to be applied.

The Chair: John Burns, go ahead.

• (1120)

Mr. John Burns (Vice-President and Coordinator, National Health and Safety, National Automobile, Aerospace, Transportation & General Workers of Canada): We also believe that the panel failed to take into consideration the mechanical aspect of the locomotives and the railcars. We don't see anything in the panel's recommendations. As the panel will tell you, we brought forward reams and reams of paperwork outlining defects that we've brought to Transport Canada's attention.

We don't see that it talks about beefing up the regulations anywhere in the report. In fact, we're concerned that they're giving more power or autonomy to the railways to make their own rules or water their own rules down and taking the authority away from the regulatory body who are outside the scope of the bottom line, if I may put it that way.

The Chair: Thank you.

Mr. Brehl, are you presenting?

Mr. William Brehl (President, Teamsters Canada Rail Conference - Maintenance of Way Employees Division, Teamsters Canada): Mr. Wheten and I will share our seven minutes.

The Chair: Absolutely.

Mr. William Brehl: Thank you, Mr. Chair.

Good morning. My name is Bill Brehl. I'm the elected national president of the Teamsters Canada Rail Conference, maintenance of way employees division. We represent over 4,000 Canadian men and women who inspect, maintain, repair, and build the track and structures at Canadian Pacific, as well as those on almost two dozen short lines.

Because of this, we are positioned like no one else to truly appreciate the gravity of rail safety in this country and to assist in making the proper recommendations for its improvement. This is not a collective agreement issue or a bargaining issue or a labour relations issue. This is a safety issue, solely responsible for the safety and well-being of the employees and the public at large.

It is our firm belief that safety on Canada's railways must be improved. As the railways run longer and heavier trains in greater numbers, the wear and tear on the track and the equipment increases. Canadian Pacific's yearly mainline derailments climbed by over 21% in 2007, and they are steadily increasing.

Here is a snapshot of significant mainline train accidents at Canadian Pacific just within the last two weeks, beginning at Easter. On March 23 over a dozen coal cars derailed, overturning in the Rogers Pass. On March 25, on the Laggan sub, two locomotives and

another two dozen cars derailed, spilling potash. On March 27, just east of Hope, a grain car broke its axle and was dragged for over three miles, destroying in excess of 1,500 ties.

On the same day, on March 27, in Ontario, north of Toronto, on the Mactier sub, a broken wheel caused the mainline to be shut down with over 60 broken rails. On April 1, on the Cranbrook sub, another train derailed, putting nine cars on the ground and spilling a mixture of commodities, including zinc. On April 5, right in downtown Medicine Hat, there was the derailment of two engines on a train carrying anhydrous ammonia. And now, yesterday morning, just outside Weyburn, Saskatchewan, there was a derailment involving three trains with dangerous commodities, including butane, ethylene glycol, vinyl acetate, dinitrogen tetroxide, rocket fuel, and nitric oxide. The fire is still burning there as we speak.

Even though not all train accidents are caused by track or equipment failure, the increase in traffic does cause fatigue on an already weakened infrastructure. It also limits the access to the track for proper inspections and maintenance. Even though it stands to reason that when more trains are run inspections should be done more frequently and maintenance schedules more strictly adhered to, this is sadly not always the case.

In the report of the Railway Safety Act review advisory panel, reference is repeatedly made to the need for openness, transparency, and accountability in the safety management, policy development, and rule-making processes. We agree. To achieve this, the advisory panel turns to cooperation and collaboration, a commitment to the development of trust and to the building of solid, professional relationships among all the parties involved. Again, we agree.

However, with the greatest of respect to the excellent work done by the advisory panel, we believe not enough consideration has been given to the critical role played by the men and women who, in rain and shine, blistering heat and bone-chilling cold, report for duty every day for the sole purpose of ensuring that our railway system, the backbone of the Canadian economy, operates as efficiently and as safely as possible.

To put it bluntly, no one knows and understands Canada's track infrastructure better than we do. Our relationship with the track is not mediated by risk assessments or safety reports or business cases. Our relationship is hands-on, direct.

We applaud the advisory panel for its recommended changes and enhancements to the rule-making process, but for any of these recommendations to succeed, the changes have to be able to be implemented on the ground. They have to be realistic, clear, and practical from an operational hands-on point of view. In short, they have to be possible, and that's where we come in.

Since we are the ones who will actually be responsible for implementing any proposed safety procedures or protocols, we believe our input must be sought and considered not only up front but on a permanent and ongoing basis. We have seen too many of our fellow workers injured and killed to know that safety rules that may look good at the planning stage may well be counterproductive when implemented.

In closing, I'd just like to say that the only way there will ever be a truly safe and efficient railway system in Canada is if the concerns, suggestions, and recommendations of the men and women, who on a daily basis actually maintain that railway system, are heard and in a formal way incorporated into the decision-making, policy development, and rule-formulation process.

• (1125)

Thank you.

Mike.

Mr. Mike Wheten (National Legislative Director, Teamsters Canada Rail Conference - Local Engineers, Teamsters Canada): First of all, I'd like to thank the committee for having us here this morning to hear our views.

I'd like to make an apology for our president, Mr. Dan Shewchuk, who wanted to be here, but it was impossible.

In the interests of saving time, I'm simply going to summarize our brief, which I'm told committee members already have a copy of. Our brief covered two topics only: scheduling train crews, and the improvement and replacement of outdated railway rest facilities.

Crews today are generally called on a first-in, first-out basis. For a time at CN, crews were called in during "time windows," that is to say, they only had to protect a certain period of time, for example, 8 a.m. to 4 p.m., three days per week, or perhaps every second day. This was when they were called out of their home terminals. For its own reasons, CN abolished this system. Crews are now being called under the old first-in, first-out system, which is very difficult for crews to work under. CP has some crews that are presently being called in time windows, but not that many.

We would also like to discuss the company's rest facilities, many of which must be replaced for safety's sake. These facilities are old, do not have noise abatement at all, and are totally inadequate as measured by the CANALERT standards. It is impossible for crews laying over in these facilities to get restorative rest.

It is entirely possible to make changes to crew scheduling and railway rest facilities. It is our opinion that doing so would eliminate many of the factors that lead to fatigue among train crews in Canada.

Thank you.

The Chair: Thank you very much.

Mr. Cotie.

Mr. Todd Cotie (Coordinator, Health and Safety, Local 2004, United Steelworkers): Thank you, Mr. Chair.

As of February 19, 2008, I have been the health and safety coordinator of USW, Local 2004, for one year. This company-paid and unionized position represents approximately 3,200 railway maintenance workers across the country. In my role, I act as a liaison between our members and the company in handling issues regarding health and safety, and I sit on the joint health and safety policy committee.

I previously spoke in front of this committee on April 30, 2007. Subsequent to that appearance, my remarks were the subject of numerous critical comments made by senior CN officials toward me

and about the future of this position. The suggestion was that it was inappropriate for the health and safety coordinator to speak publicly or to criticize CN's performance. This has been an ongoing theme for the past year.

I believe this position has been proactive in improving the health and safety of the USW members we represent, and it demonstrates the effectiveness of including workers in the safety management system. Conversely, CN risk managers have a tendency to be reactive about safety issues and are generally unavailable to our membership, as they are often asked by the company to operate trains, to the extent that our members do not even consider calling them on health and safety issues.

Our presentation today will be a brief overview of our thoughts on the RSA review. Although the panel did support our view on numerous issues, we do have three areas that we would specifically like to address today: the speed of trains, the hours of work, and the escalation process. I'll end with a few thoughts on the culture of fear and discipline.

Our first point is about the speed of trains and our workers. This issue was first raised at the standing committee one year ago, and later as part of the steelworkers' RSA submission, which you've received. I refer to page 4. We are disappointed that the RSA panel did not address this concern in their review. However, subsequent to an employee's work refusal in March 2007, and based on his concern, a work-clearing procedure agreement was negotiated for employees working on multi-track territory, restricting the speed of trains passing a work site to a maximum of 30 miles per hour if safe clearing areas are not available within flagging limits.

We continue to request that train speed restrictions near workers be included in the Railway Safety Act. It's unfortunate that an issue as important as this, which has been raised for many years at multiple levels, had to fester into a work refusal before there was any movement.

Our second area of concern is hours of work and emergencies. We are pleased that the RSA review recognized the need for improved fatigue management in the railway industry. Although the focus of the panel's recommendations was generally on transportation employees who are operating trains, we feel that similar issues occur among maintenance workers.

In a study published in September 2000 by the British journal *Occupational and Environmental Medicine*, researchers report that sleep deprivation can have the same effects as being drunk. The study found that people who drove after being awake 24 hours were comparable to those with a blood alcohol content of 0.10%, which would be above the legal limit in Ontario. Our concern is that CN has a zero tolerance drug and alcohol policy, but the same policy does not prevent employees from working, driving and operating machinery while completely exhausted, with similar symptoms to someone under the influence of intoxicants.

The concern for us is that our members are sent to derailment sites after an accident to fix and repair a track so that trains can again safely pass. Often, crews are flown in many miles from their own work sites, and work excessive hours at these accident sites, without proper shelter, food, or sanitary facilities. An example can be found on page 7 of our submission, where you will see that on November 24, 2005, a CN train derailed in an isolated area in northern Ontario, approximately 145 kilometres away from Geraldton. To facilitate repairs, 25 maintenance workers—based in Newmarket, Ontario, at the time—were flown on short notice at 8 p.m. to Geraldton, and were then bused three hours, on mostly logging roads, to the accident site. Upon their arrival at 1:30 p.m. the following day, having been on duty for approximately 13 hours, several workers were concerned about their lack of rest and their safety, but a CN official boarded the bus to brief the employees and stated, “I’m not going to accept you not going to work”, and “if you don’t [go to work], tell me now and I will lay out the consequences after”.

After the briefing, all employees did work. These men spent 30 hours on duty in their first shift, 16 hours in the next, and had no shelter and no proper personal facilities in mid-winter conditions. They were required to continue working long after the emergency conditions were over so that trains could again be brought to full speed.

We have recommended that USW Local 2004 health and safety reps be present at major derailments to alleviate any similar safety issues on site. We believe that the Canada Labour Code allows for the presence of an employee representative. This recommendation is currently at the policy committee, and we are awaiting the company’s response.

• (1130)

Our third issue is the health and safety escalation process. This past year, I’ve attended many local health and safety committee meetings to evaluate their effectiveness in resolving or escalating health and safety issues. The trend seems to be that management representatives at the local level unilaterally decide what concerns will be documented in the minutes, almost as if they do not want anything escalated to the policy committee.

On the other hand, as a policy committee member, I can also see that the policy committee is disconnected from the grassroots worker. The majority of employees are unaware that a policy committee even exists. In fact until I became a member of the policy committee, I did not know that there was such a thing or what its function was.

The steelworkers are currently educating our membership on this process, and I’ve seen more issues resolved as a result. Our goal is to create an effective communication system for health and safety that is consistent nationwide.

Finally, I’d like to end on a few thoughts of what we see now as the war on fear and discipline. Common sense is defined as sound practical judgment derived from experience rather than study. Common sense tells us that railway companies should encourage those who work in the field to be proactive in guiding the processes that help build a culture of safety.

The Railway Safety Act review panel would agree with this. An effective safety management system starts from the bottom up, utilizing the experience of front-line workers and embracing their input to develop safer processes. The perception is that CN is discouraging employee input by putting the fear of God into them. If you speak up, you’ll be disciplined. If you speak too much, you’ll be fired.

We believe that the Railway Safety Act review panel is correct in their assessment that CN is building a culture of fear and discipline. The mindset of the employee is at the point where employees are more fearful of receiving discipline or losing their job than getting injured or worse. This must change.

CN will tell you that the vast majority of accidents are caused by human behaviour. In other words, they believe accidents are the fault of individual bad workers only. This isn’t true. If it were, CN would be able to discipline its way to safety, and the culture of fear and discipline would be an effective approach. As we’ve seen, it’s not.

Accidents are the result of the combination of failures in policy, procedure, human action, and equipment. To focus solely on one aspect of cause is counterproductive to accident prevention, as doing so would allow the other aspects of cause to become prevalent without solution.

For the worker, the most effective way to fight the war on fear and discipline is with knowledge. The Canada Labour Code is a bible for health and safety, outlining employer responsibilities and employee rights. It’s not a guideline; it’s the law. Those whose safety depends on its contents should learn it, and those who must adhere to its law must be held accountable.

A culture of fear and discipline can successfully reduce the likelihood that a worker will call upon their basic rights under the Canada Labour Code. A company can combat a worker’s right to know by not providing education or training. They can combat a health and safety committee’s right to participate by keeping them in the dark on concerns, accidents, and injuries. They can combat a worker’s right to refuse with pre-emptive disciplinary measures.

All of these can be a successful strategy for a company that values statistical data over reality. The thought is that everything must be okay because no one’s reporting anything. However, with this panel’s findings, the “catch us if you can” attitude is no longer viable.

CN’s method of safety has been 100% compliance to their rules 100% of the time. My question is, where do their rules come from? Who develops them? Are employees involved with the rule-making process?

Under CN’s five guiding principles, safety is the employee’s responsibility. Yet the employee is not involved with the development of the rules that are supposed to protect them. Their only involvement in the rules process is through the employee investigations that occur subsequent to alleged rule non-compliance.

The employees who actually perform the work in the field must have involvement with the rules and processes that are applied. The steelworkers believe that safety is everyone's responsibility, not just one group's. This is common sense.

There's a strong connection between the health and well-being of workers and their work environments. When workers feel valued, respected, and satisfied in their jobs, and work in safe, healthy environments, they're more likely to be more productive and committed to their work. When the workplace is unsafe, stressful, or unhealthy, ultimately both the company and the workers are hurt. Everyone benefits from a safe and healthy workplace.

The objective for creating a safe work environment must be to instill confidence back in the health and safety system. Disciplining targeted workers, either directly or indirectly, for speaking up about safety issues is an action that demonstrate to employees that production is more important than their well-being. Employees are continually told that employee behaviour is a cause of accidents.

The paradox is that the disciplinarians are employees too, and their behaviour in the form of intimidation, bullying, poor decision-making or rule-making can be just as easily blamed for accidents.

We have to change attitudes ubiquitously. Trust, open communication, and commitment to safety are the first steps in instilling employee confidence back into the health and safety system and negating current negative perceptions among employees.

If I may borrow and conclude on this idea from Thomas Paine, author of *Common Sense*, the long habit of not thinking that this culture of fear and discipline is wrong has given CN Rail the superficial sense that it is right. I suggest in this circumstance that we seek common sense for guidance.

Thank you.

• (1135)

The Chair: Thank you very much.

Mr. McDiarmid, go ahead, please.

Mr. Robert McDiarmid (Chair, British Columbia Legislative Board, United Transportation Union): Thank you.

My name is Robert McDiarmid. I'm with the United Transportation Union. Incredibly, that represents, still, 2,800 members in Canada, primarily at CN Rail and also at the various short-line railways.

We're speaking today towards the recommendations of the panel on the formulation and adoption of rules. The Railway Association of Canada has the resources to use in developing their submissions on rule changes; however, the unions are left with very little time to respond. A 60-day timeframe is unrealistic. Unions do not have the resources and manpower available that the RAC has.

We suggest there should be opportunities for unions to provide full and meaningful input before and during the rule process, and a 120-day response time, as well as the ability for unions to recover their costs from the railways due to the significant injection of resources on the part of the unions.

As regards delegative power, we're concerned that this would have the effect of enshrining an agent such as the RAC under the Railway Safety Act, when clearly the responsibility lies with the railway companies to develop rules. There exists at this time an unlevel playing field, particularly between the unions and the RAC, and occasionally changes sought by the agent are not in the interests of safety or the employee.

Under the administrative monetary penalty, we'd like point to the McBride, B.C., accident in May 2003, where two CN employees were killed when a bridge collapsed. A penalty of \$75,000 was imposed by the Transportation Safety Board, which amounted to one half-day's pay for the CEO of the company involved.

I'd point out that the first administrative monetary penalty ever applied was \$3,125.

Therefore, we request that the fines levied be significant and meaningful to act as a deterrent to a railway company, and we further suggest that these fines should be applied to individual officers, as contemplated by the "Westray Act".

As to safety management systems, some carriers' management of safety must evolve to the health and safety culture, and we believe this culture is widely interpreted by different railway companies. We have reservations that unless the safety culture of various railways is drastically improved, these recommendations will do little to improve the SMS. We suggest that these elements cannot exist in the current atmosphere of fear and discipline. Members are afraid to report injuries, as they will be investigated and in most cases disciplined for being injured on the job. Our members know that even with an excellent work record of over 30 years, they're just one accident or derailment away from possible termination. So this cannot be a just system.

A first step in changing the safety culture would be for the railway companies to embrace paragraph 135(7)(e) of part II of the Canada Labour Code, which allows health and safety joint workplace committees to participate in "all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees."

As to fatigue management, the *CANALERT '95* study is mentioned in the review, and it is important to note that these fatigue countermeasures recommended by the working group are not being utilized by all carriers.

In recent years CN has aggressively attempted to diminish collective agreement rest provisions. More recently, in the collective bargaining between the UTU and CN in late 2006-07, CN sought to have our collective agreement rest provisions eliminated completely and to have our members rely solely on the regulatory requirements. We suggest that the strike at CN in 2007 was in part due to the railway company attempting to bargain away these terms and conditions of employment.

The CN company policy change in 2005 regarding booking unfit has seriously compromised our members' ability to address key issues such as work schedules, alertness strategies, rest, lifestyle issues, and unusual circumstances. CN views employees only as an asset similar to a locomotive or a boxcar.

As to voice recorders, we suggest that there are serious privacy concerns regarding voice recorders, and the union also suspects that this voice data will most certainly be used by unscrupulous railway companies to identify undesirable employees. Therefore, we are requesting that only government regulators be responsible for voice recorder data collection to ensure that this information is used for accident investigation only.

On training for operating crews, we have significant reservations at this time and concerns specifically surrounding the training of new conductors, yard forepersons, and helpers, and the fast-track system of training at CN Rail. Because of the hiring practices, training practices, and lack of real experience, our employees and our country are at risk. We have new conductors working with limited training, working with locomotive engineers with little experience, working with rail traffic controllers who have only recently been hired with very little experience. This situation could result in an accident of significant proportions.

• (1140)

We request that the regulations and legislation be enacted that give Transport Canada, in consultation with the railways and unions, the authority to set course structure, qualifications, and minimum standards, including the minimum number of qualifying tours for operating employees.

We also request that new regulations for training employees on the beltpack be implemented. Currently, you are okay to operate a beltpack on the first day you qualify on your rules.

On drug and alcohol testing, it was recognized by the panel that there is an absence of correlation between testing positive for drugs and having been impaired while on duty. Our members in Canada are not subject to random testing. However, company policy of some carriers allows for the company to apply drug and alcohol tests in certain situations, such as post-accident situations or use of poor judgment. Some of our members have tested positive post-accident in a drug test, and they were automatically terminated. Therefore, we are recommending that legislation and/or regulations be enacted that require a railway that is performing drug testing, mandatory or not, on an employee to have an impairment test administered to the worker, which would measure the level of impairment.

Thank you.

The Chair: Thank you very much.

Mr. Volpe.

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

Gentlemen, thank you very much.

I couldn't help but wonder through all your presentations whether there isn't a we-and-they approach to virtually everything that happens between your members and the railways. I hope you'll

forgive me if I've mischaracterized what you said, but I'm just wondering what kind of work environment that might be. Issues I've heard you bring forward, especially Mr. McDiarmid, are ones that would be dealt with in a collective bargaining environment; but unless I'm mistaken, either they have not been accepted or they've been ignored, judging from what you said. Is that correct?

Mr. Robert McDiarmid: I think you are accurate in your representation of that. We are in a reactionary position. The companies are the ones that dictate the policy, and we must react to it. So if it's us and them, then we're forced into that. It's not necessarily a position we want to work from.

• (1145)

Hon. Joseph Volpe: It's not a very comfortable position you've painted about labour relations in the country. I guess from this committee's perspective, we've been looking at the rather frequent incidents of rail derailments and rail accidents, and every member has his perspective, but it seems to me that there's one railway that keeps coming up. I'm wondering what's happened in the relationship with that railway company that results in so many accidents. It wasn't always that way.

Mr. Robert McDiarmid: We have a situation here where employees with long service are contemplating retiring the very minute they can get out of there, but they would otherwise have offered five to ten more years of service. They love their jobs, and they're good at their work, but there is this atmosphere, and they've had enough and are ready to leave. That brings in new employees, inexperienced, and I think we will be able to establish that most of these incidents are happening to those new employees.

Hon. Joseph Volpe: I think a couple of you also indicated—but you didn't say it directly—your frustration with the regulator, and you really want the regulator to come back in and establish a system that everybody accepts. The climate we've been talking about in this committee is one that's been supportive of an SMS system, but I think Mr. Wilson and Mr. Burns both pointed out that it's rules that are being imposed rather than an SMS system that's being encouraged. I know as well—I guess it was Mr. Cotie or others who referred to a particular sheet that I think everybody has before them—that safety is every employee's responsibility: follow the rules, practise safe work procedures. I guess, on the face of it, most people would say that's pretty good. I gather you think that's top-down and not bottom-up.

Mr. Todd Cotie: Yes, you're seeing a real disconnect between the two.

Being on the policy committee and not so far from the field, I can see that it's somewhere in the middle that the communication is getting lost.

Hon. Joseph Volpe: But isn't it in the interests of all employees to abide by rules that are there for the purpose of safety?

Mr. Todd Cotie: Absolutely, but part of the problem is who makes the rules. Where do the policies being presented to the employee come from? We're not involved enough in the process, and you'll see it.

Hon. Joseph Volpe: But is it the process or the actual outcome that's a problem? If the rule is good, does it matter where it comes from?

Mr. Todd Cotie: If the rule is good, absolutely, and we'll help out, but we also see rules that might not work out.

For example—and it doesn't affect our members so much—the lone worker policy is one we dispute entirely. A rule came in place to the effect that now an employee can go out and work alone without any backup, and there are procedures to follow. However, on April 19, 2007, we had an employee who was working by herself and was killed.

Part of the concern for me is whether she would have been disciplined had she not died. Was it the rule that caused the incident, or was it the actual process of having only one person out there working?

Hon. Joseph Volpe: From a personal perspective, I'm just trying to get a handle on what the problem is.

We've had others come before us from the panel who have essentially said that things aren't great, but they're getting better, so let's be patient. I don't mean to diminish what they said—they said some really good things—but you've come here today and essentially said that the workers are being treated like some of the machinery, that the machinery wears out if it's not maintained properly and will cause an accident, and that workers are not being maintained properly. You've pointed out fatigue and sleep deprivation.

To most people, these would seem to be elementary issues that good management would address immediately as part of the maintenance of the asset. Are you telling us that's not happening?

• (1150)

Mr. Todd Cotie: What we're seeing is that the oil is being changed in the engine after it seizes. We're trying to be preventive and change the oil first.

Hon. Joseph Volpe: We'll just get to the real bottom line. From all of that, should I interpret that the regulator, i.e., Transport Canada, should rely less on developing an SMS and get more into proactive regulatory intervention?

Mr. Todd Cotie: Not necessarily, especially with the steelworkers. We believe in the safety management system to an extent. Especially with my position being a liaison, what I'm trying to fix is the top-to-bottom stuff and work in the middle. We can be effective; however, it's "trust, but verify".

In the example of the 30-mile-an-hour slow order on the double mainline track, it would be nice if that were part of the Railway Safety Act. It makes our job easier to negotiate that, instead of having something fester for four years and having a work refusal. When you're seeing that pattern, the Railway Safety Act should maybe adopt that as legislation—but in my position, what I'm trying to do is clear up the mud in the middle a little bit.

Hon. Joseph Volpe: But you're proposing what you just said a moment ago—that the act be amended in order to include such measures.

Mr. Todd Cotie: Absolutely, and you're seeing... It's because we've now established that there is a concern there, and we've let it go long enough that maybe... In those circumstances 30 miles an hour seems to be appropriate. There have been no problems or issues

since we—the company and the union and I—worked that out, so I think it should be added to the act.

Hon. Joseph Volpe: Do you engage with Transport Canada in this process, and if so, how frequently?

Mr. Todd Cotie: I don't, no.

Hon. Joseph Volpe: There's none?

Mr. Todd Cotie: No. I personally have no interaction.

The Chair: Monsieur Laframboise is next.

[*Translation*]

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

First of all, I would like to thank all of you for appearing before our committee. I will give you my general opinion on the report. I feel it has one positive feature: it deals with probably all of the issues, or at least a great majority of them.

The problem is in the perception of the stakeholders. I would like you to help me with this. Transport Canada does not necessarily accept the blame that is dished out. Myself, I dream of a balanced security management system with a field inspection system that is maintained in order to ensure that the company does not commit any excesses. You may have read the testimony of Mr. Miller, the head of security at Canadian National. He thinks it is a good report but he does not agree that CN has a culture the report described as a "culture of fear and discipline". Mr. Miller was appointed in April, 2007 and right off the bat he said that he did not accept this description because he did not see that. When the chief of security does not see one of the big problems, CN has a major problem. This culture must be changed.

Canadian Pacific told us that the culture was fine and that they had new equipment. You, Mr. Brehl, you mentioned the accidents that recently occurred at Canadian Pacific.

All of this raises a problem for me. My question will be to each of you because I would like you to help me understand. VIA Rail did not appear, because everybody says that things are fine at VIA Rail, that security there is good. Things are going rather well at CP and are somewhat worse at CN. You have employees in each of those companies.

How come the security management systems or SMS culture was unable to penetrate all of the industry, when those systems have been in place since 2001? Why is security better at VIA Rail? Why is it rather good at CP and less so at CN? Is this real? If not, there is a major problem everywhere.

I would ask Mr. Wilson, Mr. Brehl and each of you to answer this question.

• (1155)

[*English*]

Mr. Jim Wilson: John is actually from CN, and I represent all the members at CP, so we quite frequently discuss the differences between the two railways. CP approaches things a little more cooperatively and brings in the unions, for the most part.

On the safety management system itself, CP Rail worked with our organization on the mechanical aspects of it. Other components were left right out of it. In fact, in 2002 I wrote a letter to the railway company asking for a copy of their safety management system in its entirety. They said I could come to their head office and look at it, but they were not about to turn over the documentation to me. That made me very frustrated, as a representative. When you're trying to understand what they filed with the regulator on safety management systems, you want to be a part of that. You also want a copy of what they filed so you can follow through on it.

On how CP has approached safety, we break it into the two components of health and safety, and rail safety. The health and safety aspect is dealt with by the regulator through the Occupational Health and Safety Act, part II. If we have issues about any part of the regulations, we're not shy about calling in a regulator. The regulator is generally very good at coming in, doing inspections, and writing voluntary compliances. The employer, for the most part, follows up on all of it.

Our frustrations are with the Railway Safety Act. When we bring up issues of non-compliance to the regulator, we're seldom answered by the regulator, let alone told if anything is done about our concerns. In our presentation to a review committee, both John and I presented a few projects we had in 2000 and 2004 that identified hundreds of non-compliant items. To this day none of them have been answered by the regulator.

We believe you need a minimum standard in the regulations and the employers have to follow that minimum standard. I think the employer can exceed that minimum standard, similar to what's in play in the occupational health and safety regulations.

We view the safety management system as a plan for how they run safety on the railway. At CP, for example, their injury statistics on mechanical in 1997 showed that 12.87 of every 100 employees were getting injured. Today I think it's under two. So as far as occupational health and safety, the regulations, the regulator, the railways, and the unions have been very instrumental in driving those numbers down. When it comes to rail safety, we believe the regulator has been absent in all of it.

John can talk about the culture of fear.

Mr. John Burns: Thanks, Jim.

In the past, the SMS system was developed without participation or with very little participation from the employees, who should really be the catalysts for it. It's changing a little bit—I will give CN that much—but unfortunately even when you read the safety management system it says “where appropriate they will include the employees”. So it's open to interpretation, by whoever is running the SMS system at that moment, whether or not they're going to bring in employees for their presentation. In the past they haven't. So it is changing and getting a little better.

Todd talked about a disconnect from the top of the house. When we sit at the policy committee level we're very serious about the SMS system. We want to see it work. We try to give our input, but the disconnect.... He spoke about his membership, and probably all our membership have very little knowledge of the SMS system. CN

does not put that out to the employees. They do not have participation by the employees.

Yes, they speak very eloquently about it at the top of the house. They seem to be very concerned and honest about it. But by the time it hits the employees it's been either watered down so much, or completely forgotten about. At two o'clock in the morning, when that supervisor has to get a train out of the yard, he's not worried about the safety aspect; he wants to get the train out of the yard.

I'll leave the SMS system and talk about the culture of fear, which also touches on that.

• (1200)

The Chair: I think I'll have to move on. We've gone way past the time, so I'll go to Mr. Masse, please.

Mr. Brian Masse (Windsor West, NDP): Thank you, Chair.

I can continue along that vein, actually. I had a chance to review the blues and what Mr. Miller said here at a previous committee meeting. He gave assurances that they were making progress, and he outlined a number of different initiatives they were taking. One of the more interesting aspects of his testimony, though, was the notation that, beginning in 2007, CN has hired 2,400 people. That's a significant staffing level increase.

It should be noted, as well, and I think it's rather interesting, that the contributions of the labour movement were not really duly noted in this. However, there was a condemning statement about CN here about the culture and the behaviour and so forth. So I would like you to continue with regard to employment and training and open this up to the whole panel.

Just to conclude, I find it frustrating at times, because you see the amount of rail increase we've had across this country and infrastructure that is widely acknowledged to have been mismanaged and not appropriately upgraded over a number of different years. Then an accident happens, and the news headlines are “Three-train collision closes Highway 39 and forces evacuation: Operator error believed to be cause of train derailment”; “Three trains tangle: Operator error eyed; Leaking liquid ignites; nearby residents evacuated”. But when you start to read about it in the details, you really see that it's the number of trains, the speed, what they're carrying, and also the conditions that seem to be buried, at the end of the day, and the error is seen as the operator. And you're here actually outlining a series of things related to fatigue management and facility development and trying to fix those things.

I want to hear about the growth and how it's challenging in this culture you have right now.

Mr. Mike Wheten: To answer, I'd like to touch on the culture of fear, too. I think I can put it in a perspective that we can all understand. I'll be very specific. Before I came, about a week ago, I was putting together the brief, and I called our general chairmen. They're the ones who look after the grievances at the second level. They go from our local chairmen at the local to the general chairmen.

So I called our CP general chairman and I called our CN general chairman. I asked how many grievances they were carrying at CP. I called CP east and CP west. The guy in the west said he usually carried between 50 and 75. I called the guy in the east and it was even less.

I called CN central, because at CN we have east, central, and west. The guy at CN central was carrying over 2,000 grievances at any given time. The guy in the west carries around 2,500 grievances at any given time.

Just to reiterate what John said, at CN, when they want to get a train out of the yard, that train moves out of the yard. We don't see any respect for the collective agreement, and in a lot of cases, for the regulations. I may be criticized for saying that here, but that's an absolute fact.

I'm sorry, I forgot your question. Could you ask me again, please?

Mr. Brian Masse: Well, culture was the primary thing, but it was also in terms of the staffing increases that have happened within this context. That seems to be really challenging. I don't know if other organizations are going through the same thing, but you're having people who are going through training and development during this growth in this environment that is, quite frankly, somewhat toxic, and that concerns me. Because if we don't get a grip on that, you're going to have a continuation.

I heard no supporting testimony from either CP or CN about any real progress in the safety management systems ending that. They had no business plan. They had no specific examples they could point out to me, and some of them actually didn't have any expectations about how long it will take to get beyond the culture that's there. So I would like to hear about this from the aspect of the increase in the staff component.

• (1205)

Mr. Robert McDiarmid: From the transportation aspect, they mostly are new hires. I'm not speaking about the carmen and so on. There have been none since 1987. That was the last influx of employees on CN lines west, in any case.

Now we have a new experience, and that's that our supervisors, our train masters, are being hired off the street. There is no more flow of people from the ranks, with twenty years' experience, to these positions. We're ending up with ex-managers of Starbucks and A&B Sound electronic stores coming in. And frankly, they're quite often there for less than a year once they see the culture they're dealing with.

Mr. Brian Masse: It's a little bit different from coordinating rocket fuel.

Mr. Robert McDiarmid: We spoke about perception earlier, and one thing we recognize is that perhaps Transport Canada's getting beat up by the RAC. They're being bullied if nothing else, and they have funding problems. We go to them with concerns, and they start mentally calculating what that's going to cost them to pursue and are very blunt and frank about it, that they can't pursue it, they cannot afford it. They have as much manpower shortage as the railways apparently have.

CN policy perhaps is based on a U.S. model, but for sure it's based on terminate and replace.

Mr. William Brehl: Mr. Masse, I represent the maintenance workers on CP. Todd represents the same employees on CN. We deal with engineering services. I'm not sure of the culture of punishment and discipline for the operations for the running trades or for the mechanical, but it sounds like a different company from the one I'm dealing with.

CP definitely disciplines on safety issues. If you have an accident, you go in for a statement and you are disciplined.

A letter came out recently from the general manager of track programs and equipment, which are our seasonal work gangs. A letter came out from him concerning on-track collisions of machinery. He didn't come to us. I'm the member of our policy committee at CP. He didn't come to the policy committee. He didn't go to the local workplace health and safety committee and ask for ideas to lessen the on-track collisions. He put out a letter, which was posted everywhere, that said if these continue, the quantum of discipline will be increased.

We took exception to it and we took him to task, brought it to the policy committee, which went on to appeal the letter.

But it comes out right away. That's the off-the-cuff reaction every time.

I don't see CP being the good guy in this when you compare them. Maybe when you compare them with CN you can say they have 10 or 12 fewer mainline train accidents per year. Out of close to 100, 10 or 12, yes, I don't think they're all that good. I don't think things are rosy at CP. I just gave you the last two weeks' snapshot, and it's ugly.

When you say operator error and human error, that's the first thing they'll say on anything. But if you start getting into it, you get into the process, which is protect against, that was on OCS territory, the occupancy control system, that's the Weyburn one you were reading, and you can protect against other trains; it allows for human error.

Thanks to the changes in the CROR, the Canadian Railway operating rules, our guys, when we're out working on the track, have to protect against trains that can come into our track occupancy permit. We're not a train. There were no injuries there. Thank God, there were no injuries. There were minor injuries, scrapes and the like. But we're not a train. If a train hits us, we die; it's as simple as that.

I buried a friend of mine, Gary Kinakin, two Christmases ago because he was working on one track. A train was passing and was exceeding the 30 miles an hour that they should have been and, for whatever reason, Gary stepped in front of it and got hit. You don't argue with a train; you just die. It's as simple as that.

CP runs this fear and this threat culture to improve their safety. They don't include us from the bottom up, other than if they're looking at new safety policies, we'll get to see the finished product, and they'll ask us to give them our thoughts before they implement this in two days. It doesn't matter what thoughts we give them, it's being implemented in two days. But we had a chance to review it.

That's our whole submission here. We want to be included. We're willing to be included. We should be included.

One last point. On the new hires, everything seems to be going toward CN. Our track programs and equipment, which I believe are the same at CN, are probably the biggest number of accidents you have in engineering or on track program and equipment. That's where the injuries happen. The summer season is the only time you have to get that work done. If you defer it, you end up with sole orders. So it's push, push, push. It's like assembly-line track work.

At CP this year 25% of its track program and equipment employees, if they're able to hire them, are going to be brand-new. One in four are going to be brand-new. We have guys out there who are working on machinery, hired as maintainers, who have no mechanical experience at all. They're getting them under the apprenticeship program. Just two days ago a CP manager told me there's a heavy-duty mechanic two crews away within radio earshot who's supervising them. That's the outlook.

• (1210)

I don't see CN as the bad guy and that CP is improving. CP's derailments are increasing. They increased by 21% from 2006 to 2007 and they're going up now. Maybe they're not able to catch CN—I don't know if that's the number of trains or amount of track or differences in culture or whatever—but they're headed in that direction. They are putting, in our opinion, production over safety, and as teamsters, we're not going to stand for it.

The Chair: Thank you.

Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair. I'll start with just a general comment.

I've sensed from all of your comments that in principle you support safety management systems, but you have great concern about implementation within the industry. Is that a correct characterization?

Mr. Jim Wilson: For us, yes.

Mr. Ed Fast: Much of your focus is on the culture of fear and discipline. We had heard a lot of that about CN, not as much about CP, but now we're hearing more within CP as well, so that concerns me.

As you know, the Lewis report was just part of a much larger study that this committee is undertaking. We had hearings before that report was released. We'll continue to have hearings on that, and so despite its having, perhaps, some kind of a bias towards the railways, I think it's still a good launch point because most of the recommendations all of you do agree with, at least in part.

Let me drill down a little bit more on the culture of fear and discipline. I've asked this question of CN. I didn't get a satisfactory response, and many members of this committee have been highly critical of CN's performance.

If you had to pick two strategies you would implement to ensure that the culture of fear and discipline is dissipated within the various railways, what would those be? I would ask for just point responses, because my time is short, starting with Mr. Wilson.

Mr. Jim Wilson: I'm not sure if I understand what you're asking.

Mr. Ed Fast: If you had to pick two strategies that would address the issue of the fear and discipline culture within the railways, what would they be?

Mr. Jim Wilson: One would probably be anonymous reporting. They have a system down in the U.S. It's a pilot project done by the FRA. They have a close-call reporting process down there, by two railways. I think one is the Union Pacific and I think CP has just signed on down there. It's where a third party actually takes the calls. So anybody can call in a near miss, so there's a process that's going on there. We're actually exploring that at CP as well. What we're struggling with, again, is the anonymity of it. So that would probably be the first one.

The second one would be investigations for contributing factors rather than what happens in a lot of cases, I believe more on one railway than others. They get to one fault and they say that's it, whereas in any incident or accident there are contributing factors of five, eight, or ten items that need to be fixed, such that if you took any one of those out, it wouldn't have happened.

So I think that would probably be two items.

• (1215)

Mr. Ed Fast: Right. Thank you.

I'll move on to the next group, if I could.

Mr. William Brehl: I would have to agree with Jim with the close-call reporting. We're working closely with that at CP on the policy committee.

Reporting with amnesty is basically what it is. If you have a close call that could have been an accident but wasn't, you bring it up, you discuss it at workplace health and safety committee meetings. They have it at big safety meetings, so that everybody's aware of what can happen, and you don't get disciplined even if you made an obvious mistake or a rule violation to do so.

The second way, to keep it short, is to place education and involvement over discipline in respect to safety issues. If it's a safety issue, we don't look at discipline as the end-all and be-all of dealing with it. You educate and you involve all the employees into finding solutions to prevent it from happening to someone else.

Mr. Ed Fast: Mr. Cotie.

Mr. Todd Cotie: I would follow up with education and communication.

Following on Mr. Masse's question, with the new hires, we have to get them when they're young. We propose orientation courses. The problem is that we live in a do-now-grieve-later atmosphere with the union, thinking company/union issues, but with safety it's not do now, grieve later. You can't think that way.

Regarding safety, our guys who are hiring on have to know that they have the right to refuse, the right to participate, and the right to know, and that's why we have to get them once they hire on and give them that education right off the bat. The communication is just an effective system, top-bottom, as we were saying, with the policy committee to the grassroots worker.

Mr. Ed Fast: Thank you.

Mr. McDiarmid.

Mr. Robert McDiarmid: Okay, well it's an off-the-cuff question, I suppose. It hadn't been thought of before, but a peer review or an experienced counselling of employees might work, which could lead to a just discipline system. By that I mean it may be not a bad idea to assign a new employee or a disciplined employee to an experienced crew.

Mr. Ed Fast: And the second—do you have a second?

Mr. Robert McDiarmid: Just discipline system.

Mr. Ed Fast: The reason I ask that question.... Sorry, go ahead.

Mr. Mike Wheten: I'll be very brief.

For once I think CN has done it right. It has assigned a vice-president to safety. I try to work with the safety management system, and I think this is one area in which there needs to be more focus, and actually that even includes at VIA. At VIA Rail, CN and CP, there hasn't been a focus. I'm not saying we can't do that, but I think with their assigning Paul as a vice-president we can now focus on safety.

I actually would like to see CP do that, although they have their system. But with the SMS, I'd like to see more focus, and perhaps if we had somebody at CP in charge, we could focus. It seems to me when we're working with it as a group—and I have worked with them at CN as a group—it is just to pick out the things and separate them so that we can deal with them. It just seems like too big a global thing, and I think that might be a positive. And I think maybe we should start looking for positives here.

Mr. Ed Fast: It is a little bit unfortunate, because I believe SMS has been required for some seven years. The implementation obviously hasn't gone the way it should have, and we've now seen within the airline industry, under Bill C-7, that we've become much more prescriptive in what's required to implement SMS. It's unfortunate, because the railway industry is now going to attract similar legislative and regulatory changes to make sure that implementation happens properly.

I get a general consensus here that you want some kind of non-punitive reporting system, whether it's immunity or whistle-blower, something along those lines, a close-call program, something that all of you would support. It's unfortunately something for which CN didn't really come out with strong support. I asked that question, and they sort of hummed and hawed, and they said it might be nice, but there are problems with it. Is it something you would support?

Mr. Robert McDiarmid: You want a system in which you're going to learn from your experience and not just simply be removed from your career or your life.

• (1220)

The Chair: Mr. Maloney.

Mr. John Maloney (Welland, Lib.): I'd first like to address fatigue management. Is there a maximum number of hours that could be suggested, and what would you base that maximum number of hours on? I know you have long runs and short runs. Is there something that you suggest and the basis on which you—

Mr. William Brehl: Do you mean operating or non-operating?

Mr. John Maloney: I'm talking about train crews—operating.

Mr. Mike Wheten: That's a pretty difficult question. There are a lot of systems built. We keep hearing about the 18 hours, and certainly it is out there. There's no doubt about it, but I think if you took the reality of it, it's not being abused.

Although it's in the mandatory rest rules, the guys can certainly do it. Sometimes it's helpful. For example, if you get a crew that's ordered for six in the morning and you get to the away-from-home terminal at two in the afternoon, that's eight hours in and they've still got ten hours left on their clock. You're going to take them off the train at two o'clock in the afternoon and then put them back on another train at eight or nine o'clock at night. So it can be useful.

They're entitled to book personal rests if they're tired. I had a situation I was dealing with on a railway in which the crew had been set up in a job that was working somewhere about 16 or 17 hours a day on a two- or three-hour basis, and I guess one of the guys got a little fed up and gave me a call. I called the manager of that railway and told him he just couldn't do that. He said it was within the rules. I said no—it's against the spirit of the rules.

We had a disagreement. I called Transport Canada. Transport Canada called me back five minutes later and said the situation....

We're definitely going to look at those mandatory rest rules, but I don't know that we want to get away from the 18 hours. The guys can book personal rest. From my point of view, I don't really think it's abused for the most part. I know it sounds scary as heck, and it's certainly not something you'd want to see crews do all the time. Maybe we're going to have to manage that.

I don't know if that answers your question or not.

Mr. John Maloney: One of the briefs had some pretty grim descriptions of your layover facilities. I'm not sure which brief it was—

Mr. Mike Wheten: That was mine.

Mr. John Maloney: Is that the standard type of layover facility?

• (1225)

The Chair: Thank you.

Mr. Bellavance is going to share his time with Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Thank you very much, Mr. Chairman.

It is important that we have a good understanding. Certain measures have been taken in the air transportation sector, but in the rail sector, the situation is not the same. In the airline sector, you only have to take care of one piece of equipment, the airplane. The landing strips and the airport are the responsibility of other managers. And the route used by airplanes is in the air. In your case, you have to take care of thousands of kilometres of railway and of railroad yards. All of this belongs to the company.

If we resolved the anonymity problem... We would like, through legislation, to protect your employees who blow the whistle. Whistleblowers should not be punished. That is contrary to the necessities of a safety management system. That can be resolved through legislation.

Mr. Brehl and Mr. Cotie talked about training. I liked your example, Mr. Brehl. This is why I wonder if there is one system that is really better than the others. There are two ways of doing things, there are two companies with two different strategies. The result, as you have stated, is a few less accidents with CP. What do you mean when you talk about education? Does this mean that the companies must invest money? There is no training going on, despite the fact that the SMS has been in place since 2001. There is no training culture at CP, and you are saying that training is required. Mr. Brehl and Mr. Cotie, could you explain to us how this should be accomplished?

[English]

Mr. William Brehl: The training systems at CP are good when they're utilized for our people, for the engineering services. But I assume they believe they're too expensive to run very much training. They try to get by on the cheap.

As Mr. Cotie pointed out, our people on the ground at CP know nothing about SMS. As you go up to the steering committees and the policy committees they begin to understand the safety management system, but the local health and safety committees have very limited knowledge.

As far as training is concerned, they didn't begin training our track foreman and our leading track maintainers, who are the two in charge of each crew out there.... They went about seven years without training anybody. You learned on the job. They were not hiring a lot of people, but they were bringing people up as others retired. Then they decided they had to start training again but they decided not to train foremen and LTM; they'd have one course and train them both. The course used to be four weeks long with a refresher every three years. Now it's for two weeks and that's it. You're trained and you're the guy.

I hate to keep throwing examples at you, but there are so many of them.

We had an incident in December 2007, outside Golden, B.C. Three employees were clearing snow on a night crew in the dark, and exceeded their limits. They were recognized by the RTC as being outside their limits when they got on the radio and were protected. Nobody was hurt, but when they looked into it, the three employees didn't have four years of service among them. None of them had received training. They were just put out to work in the dark in a snow storm.

So the training hasn't been done properly at CP, and it is an issue that we fight with them about all the time. We have it in our collective agreement that we are to be included in all training—that we supply involvement and input. But all we ever get in the end is “This is what we're going to do. Take a look at it. We're going to do it next week.”

They do the health and safety training that's mandated by legislation. They keep up to date on it, and I'll give CP credit for that. They don't give human rights training or return-to-work training. All of it goes by the wayside until they have to do it. I believe Mr. Cotie said they put oil in after the engine seizes, and that's a good analogy. That's exactly it. When an accident happens they start saying “Let's fix this”.

I'll make this brief and turn it over to Mr. Cotie.

I have one other example. I lost a friend on mine in 2000. Shawn Ormshaw was changing a traction motor on an Ohio crane. There were no mechanics there at all. He was a labourer who had only worked with the railroad for two years. He undid a bolt, the traction motor fell on his head, and he died.

That implemented a change at CP in the engineering services and brought about what we call the job briefing booklet. I don't know if CN is doing the same thing, but at the beginning of every job, and if the job changes, you have to do a briefing with everybody. If a new person comes you have to do a briefing with them on all the hazards, what work they're going to do, where the health and safety guy is, where the first aid guy is, who's going to call 911, the ambulance routes, and all of it. They do it and it's great, but it happened after a guy died.

There are so many things we should be training our people in now—proactive instead of reactive.

• (1230)

The Chair: Mr. Brehl, I'm going to have to stop you. I'm sorry. We're restricted for time.

Mr. Watson.

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

Thank you to our witnesses for appearing here today. We appreciate your input.

If you've been following the hearings before our committee, you'll know that we have not gone easy on the rail companies in terms of their answers before this committee. We haven't gone easy on the regulator either, Transport Canada. We'll see how easy we wind up being on you guys. But in fairness, if we get tough, bear with us, because you're also part of the solution.

This review is 200-plus pages in length. Are you the folks who've actually read the report, or has somebody done that for you within your various organizations? You all have a good working knowledge of the document? Okay.

Out of the 200-plus pages, when Mr. Lewis was here I asked him if the heart of the entire thing really boils down to what I see on pages 73 and 74, concerning an evaluation tool for safety culture, agreeing that where we have to get to is beyond just simply rules and compliance but to safety literally permeating the culture of the operation. And that's as much for the regulator as it is for the companies themselves.

They talk about a five-stage continuum on the progress to full implementation of SMS. I think we can reasonably agree and I think the evidence strongly concludes that when SMS is fully implemented—that is, as a layer on top of the rules—that is where we will see safety results at their best. They point to Air Transat as one particular company, for example, and VIA being a little further along the path than CN and CP.

I asked Mr. Lewis to rank the companies on that continuum and to rank the regulator, Transport Canada, as well, on that. He said CN was somewhere between a one and a two; I think he put CP somewhere around a two to three; Transport Canada at the same range, about a three; and VIA at a four. So we see that there's a lot of work to be done.

First of all, I want to ask for your evaluation of both CN and CP and Transport Canada. Do you agree with those assessments, that this is about where they're at on the stage in the continuum?

Voices: Yes.

Mr. Jeff Watson: I'm listening to your testimony today. I listened to CN and CP the other day, and I'm hearing the same kind of thing here. There's a strong focus on rules and compliance with rules. When I look at this continuum, that puts you guys, along with the company, to some respect, in the mindset of somewhere around two to three in the continuum, and we have to get beyond simply that type of a focus.

I think this gets to Mr. Fast's testimony, what he was asking about. I see it in the CAW's recommendations, actually, and I want your comment. You're asking for a SMS assessment guide and protocol similar to air. Have you had a chance to look at the proposed amendments on the Aeronautics Act, which talk about some sort of an immunity from players, the ability to report, to get ahead of the curve? So if I'm in a situation where I don't have enough time and I'm forced to not go through my full checklist, I'm able to report that anyway and that goes into the system for the full gathering of information. Are you agreed that this is the direction in which we have to go, that we have to get to something that encapsulates much more information than simply the rule that regulation compliance inspection captures?

A witness: That's correct.

Mr. Jeff Watson: How do you envision this reporting system functioning?

It's open to the panel, not just to you guys.

You've had a chance to look at the air side of it. Is the immunity the way to go? Is it this call-in system that you're talking about? Can it be something else we haven't envisioned?

Help us get to that, because I think that's really the key point. You want to capture much more information than we're getting right now in the system, so that we can see where the problems are in advance of something dangerous happening.

• (1235)

Mr. Robert McDiarmid: I'd just like to point out that there's a fundamental difference between air and rail, in that air has a lot of competition and it deals with the public up front.

If planes fall out of the sky, people will flock to another airline. If trains derail, for the most part the only ones affected are the grain growers and the public in the one-mile radius of that derailment—for the most part. They can certainly impact a lot more. Yet the grain customer was screaming the loudest during the strike in 2007 at CN, and yet they're the ones who lose the product. And in any case, they can't go to another competitor, because the lines aren't there. So there's the fundamental difference.

Airlines want to have a safe management system because of the interaction with the public, which the railway doesn't have that focus on. VIA does; it's all public. CP does because they probably recognize that it's financially beneficial to them. CN doesn't recognize it whatsoever. Mr. Reason's safety culture does not exist.

The Chair: I have to stop you there. I'm sorry, Mr. Watson. I know Mr. Bell, who has been leading this charge, wants to comment.

Can I just add one very brief question? Of the fatigue that's out there and the concerns that are expressed, is any of it or a percentage of it related to employees wanting the extra time, the overtime?

Mr. Robert McDiarmid: I wouldn't say overtime. It is time. They are restricted from any time off with their families. It forces them to make a decision: "Do I go all out for three weeks to have a week off?", and "Can I maintain my family's earnings?" Those are the factors.

The Chair: And again, I think that might be part of some of the issue.

Mr. Bell, you are to conclude. You have five minutes.

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

A number of the questions that I had asked of the railways and wanted to ask of you have already been asked, and I've heard your answers.

I'm interested particularly, and obviously in terms of the workers, in the issues that were of concern related to the fatigue issue, the training issue. The other is the issue of health and safety committees. I don't know, since I missed the beginning of the presentation, whether you were particularly queried about it. I know there were two recommendations that talked about this, recommendation number 19 and recommendation number 24.

Number 19, as we heard from Transport Canada or the panel, relates to the SMS and therefore concerns the companies, whereas recommendation number 24 talks about Transport Canada and the companies together having areas of responsibility.

Paragraph 24-7, I guess I'd call it, of the latter recommendation talks about a means of involving railway employees at all levels, and where possible through health and safety committees and representatives. Number 19 talks about the industry taking steps to ensure the effectiveness of local occupational health and safety committees.

We heard, in terms even of the ratings of the companies and their effectiveness, that it varies by region; the Atlantic region, the centre, and the west.

I am wondering whether you have any comments, particularly with respect to the health and safety committees.

● (1240)

Mr. Jim Wilson: For CP, the way it will range by region, sometimes even by location, specifically depends on who the boss is. If the boss has a built-in belief in safety, you'll see things get dealt with a little more, rather than sit on the minutes for an extended amount of time.

Again, if the employer has the ultimate say as to what gets fixed or doesn't get fixed, then that will drive your culture or the effectiveness of the committees.

That's why we again speak about regulation: at least there's a minimum standard that has to be fixed. If the employers can't meet the minimum standards, at least we have somebody to go to, and somebody has to come in to enforce these minimum standards.

Mr. Robert McDiarmid: I spoke earlier, sir, about the need to get involved in paragraph 135(7)(e) of the Canada Labour Code, which is the employee participation in all investigations and inquiries. This is an item that is readily ignored in the safety committee atmosphere, despite the unions' wishing to participate, as outlined in the Canada Labour Code. It will not be entertained, in my view, by CN at the very least.

Mr. Don Bell: Have you noticed from CN a change since April 25 of last year? It's almost the one-year anniversary since Mr. Miller was put in that place, and I presume of the focus that CN acknowledged to us when they were here, that more or less their increased awareness of the whole culture of safety has come since this committee started its work.

Mr. Robert McDiarmid: I would point out that we have had a vice-president of safety before, back in 1996 at the very least, when Mr. Tellier was still representing the company, and a CN ombudsman of safety, although when Mr. Tellier left, so did those positions.

If they're reintroducing it, that's terrific, but the success of a committee, I find, is more from the participants on the committee and their experience and knowledge and training.

Mr. Don Bell: I note that the panel said, on page 70 of the report, "Based on what we've heard through the Review process, there appears to be a serious disconnect between CN's stated objectives and what is occurring at employee levels." I know that this goes to the traditional rules and discipline model, but it also seems that the health and safety committees would play a role.

At the last panel, I presented a photograph that I had taken in CN's yard. It showed safety as being the fourth item on their list. They had said that safety was number one, and I sort of challenged them on this. They said that this didn't necessarily represent the hierarchical

order of things, and yet, in another photograph that I sent to Mr. Miller afterwards, these four were broken down into four separate panels—I'm talking about the Prince George yard—that went in descending order, like steps, down the wall.

It says here that safety is every employee's responsibility. I agree with that. I guess in the broad sense, even the management are employees. But I take managers and employees in the sense of people who work for the employer, generally, meaning the company has to have that responsibility as well, and it has to be number one.

● (1245)

Mr. John Burns: When they give you the spiel, that's the exact order they give it to you in. Every employee sees that as the order of preference, as you've stated in your presentation. While CN, at the top of the house, will tell you that safety is their number one core value and they want to exceed and do as much as they can for safety, when we negotiated a safety agreement with them they cancelled it.

They say that they will go back to the minimum standards of the code. The code is good if they apply it all, but they don't even want to go code-plus when it's negotiated with one of the unions. But they do set the bar of "these are our priorities".

The Chair: I'm sorry, witnesses, but we have a little bit of business to wrap up. I'd like to thank you for...

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): On a point of order, I'm wondering whether we would be able to receive a copy of that safety agreement that was negotiated.

Mr. John Burns: Absolutely.

The Chair: Thank you.

I thank you for attending. I think we've gained some new knowledge and information that will help us in our final report.

I am going to ask the committee to stay seated. If you're going to do any discussion, please try to keep it a little bit low. We have a brief motion from Mr. Volpe to discuss.

Again, thank you to our guests. Enjoy the rest of the day.

There's a notice of motion on the floor by Mr. Volpe. I would ask him to take the floor.

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

I am presenting this just to make the conversation a little bit more formal. I have been engaged in conversation with the parliamentary secretary with respect to motion number 183. The motion was introduced by a colleague from Thunder Bay—Rainy River, amended by a colleague from Niagara West—Glanbrook, and passed, I guess unanimously, in the House. It shows that all parties can work together when there's a will.

We had talked about bringing this particular motion, motion 183, to this committee for further study. I think there was a general inclination to go ahead and do that as long as it did not interfere with the already scheduled work of the committee and the intended timetable upon which we already had some agreement in principle—taking a look at the navigable waters act, for one; we wanted to make sure that was on the table and didn't get moved over to one side. Then, of course, were the usual caveats that if any legislation came forward, that would supercede any motions we were entertaining.

I think on the basis of that kind of conversation, we agreed that we were going to accept the possibility of doing motion 183. I have put it in writing for us so that it would be formal enough and the committee would know exactly what our discussions were about.

So having been as transparent as possible—everybody has the motion before them—and having laid out the parameters under which we had conducted some of those discussions, I propose that the committee deal with motion 183, and that it devote to this, I don't know, perhaps one or two meetings, and maybe even three, but certainly at least one. We would hear the mover and the amender, and take a look at exactly what they have. We'd maybe even bring in some officials from the department.

I don't think we've discussed anything beyond that. I know there was some discussion in the House with the other two opposition parties when they were engaged in debate. We haven't had any formal discussion on it here.

My intention here is not to pre-empt any predetermined schedule, nor is it to lead off into a long study that is never going to get anywhere. It is primarily to deal with a motion that has received the unanimous support of the House.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: I understand the meaning of Mr. Volpe's motion, but I am wondering if it is being tabled before the right committee. The motion deals with international trade, interprovincial trade and the best value for Canadians. Theoretically, it the Standing Committee on Industry, Science and Technology that should be looking at this. I see that the Liberal Party has chosen the Standing Committee on Transport, Infrastructure and Communities to study this. We however do not have the necessary expertise. In any event, the Department of Industry will most certainly have to be invited to appear, etc.

I would ask that my Liberal colleagues give this some thought: is our committee really the appropriate one to be studying this type of motion? That is what I am asking myself. The Bloc is in agreement; that is not the issue. The issue is whether or not we have the necessary expertise to not make some error in matters of international relations. At first blush, I would tend to think that our committee should not be the one to discuss this, but I remain open to the possibility. The aim is that this be discussed. It is not a problem for me, but I would not like this work to be done by the wrong committee.

• (1250)

[English]

The Chair: Mr. Masse.

Mr. Brian Masse: I'm generally supportive of moving forward on this, but I want to make sure we do a proper job. I wouldn't want us to just skim over it with a few witnesses and produce a couple of points or a small report and then that's it. If we're going to do this, I think it should be done properly. So to me, I think it would probably deserve more attention.

Given what the Bloc is suggesting, I don't know whether it would be appropriate for us to talk about this at a steering committee meeting when we have all our other information in front of us. I'm flexible, but I want to make sure that, if we're going to do this, it's going to be done properly. There's no point in doing something superficial that doesn't get to something that we can recommend to the whole of Parliament.

Mr. Brian Jean: Actually, I'd just like to commend Monsieur Laframboise for the comment. At first blush, I was very interested in it, just simply because it was passed unanimously in the House, but it certainly would appear to me that this is probably not the right venue to study this. I never really thought about that before, to be blunt, and certainly with Mr. Masse's comments put in there, it seems to me that if this is going to be studied, if it's going to be done in depth, it certainly should be done in the proper venue, and this is not it.

With respect, Mr. Volpe, I never really thought about that before, but if it's going to be done, it should be done properly, and I don't think this is the proper venue to do it.

I'm wondering whether the mover would be prepared to hold off on dealing with this and not have a vote on it at this stage, so maybe we could talk behind the scenes a little bit about what the context of it would be, and maybe even at the end of the day, we might have one meeting on it and then make a recommendation that it be something that the industry committee study.

The Chair: Mr. Volpe.

Hon. Joseph Volpe: I appreciate the input of all of my colleagues. Mr. Masse is right, of course—you either do something right, or you don't do it at all.

My speculation on the amount of time that one might have spent on this or might spend down the road really has everything to do with the calculation of time allocated for other things this committee has dealt with in the past and how much time those have taken. This being a motion of the House and not a bill of the House caused me to reflect on the chronology, so my speculation is not designed to be dismissive or restrictive. It's one of pure calculation and logistics.

With respect to Monsieur Laframboise, I know that those issues were raised as well in the debate, and in fact, as I understood it, the reason the debate ended up with the result that it did is because Mr. Allison also, along with the Bloc, took into consideration, first of all, federal-provincial jurisdictions and the provincial interest in this, and secondly the question was raised as well about whether this committee would be the appropriate one.

Because there are issues related to industry and industrial strategy, and because there are issues also related to public works and procurement issues, and because there are issues related to international trade and obligations under WTO and NAFTA, etc., one could imagine that the motion might not appear to be focused on this locus as the most appropriate forum for debate.

However, it's all begun as a result of transportation-related issues, and I think there's general agreement that the department responsible is the transport, infrastructure, and communities department, the minister and therefore his department, but it was born out of a desire to move the transportation issue along.

It's not for me to judge whether the motion was appropriately crafted in order to ensure that it focused directly on the specific responsibility of one minister and one department, because as you can see, even with the amendment proposed by Mr. Allison, it tried to capture as many of the issues as possible in a motion based on principle, the principle being that with respect to issues related to transportation technology that it be dealt with, keeping in mind the interests of Canadians—and it doesn't matter where they live—and that those transportation issues be held front and centre by the department and the minister responsible.

So that really is the intent of the mover of motion 183, that it come to this committee rather than to any other.

I suspect, Mr. Jean, that while your observation may have merit, all the other committees are probably going to say that they're sorry but they are going to wash their hands of this one too, because it's not really all theirs. There isn't a precision associated with a bill, with legislation that's passed in the House, and I acknowledge that. I grant that, and I dare say that perhaps Mr. Allison, who may wish to speak to it, because he moved the amendment, may even agree, but it doesn't really advance the issue for us to put it off to another day. That's why I gave Mr. Masse and Monsieur Laframboise a little bit of flexibility and the background for having this discussion as to why this should come to this committee and nowhere else.

If it's a motion that was deemed by the House to be worthy of consideration and voted upon, then it has to end up in a particular place, and I dare say that the best place for it would be with this committee.

Does it have to be done at our very next meeting? I've already acknowledged on behalf of Mr. Boshcoff and Mr. Allison that we'll take it in accordance to the schedule that we have already definitively planned out and that we have implicitly accepted.

• (1255)

Mr. Jean, I don't think we need to discuss it down the road. We simply accept the principle that I laid out for you: that is, that we have this motion that received the unanimous support of the House;

it seems to be focused more on transportation than other issues; and it's not going to impinge on the schedule from this committee. We accept it on that basis, or not.

The Chair: I have a lot of people who want to speak on this. If there is agreement among the committee, we might defer it to the next meeting to finish the debate, or we can call the vote now.

Mr. Brian Masse: Mr. Chair, could I speak?

The Chair: Very, very briefly.

Mr. Brian Masse: Yes. For the record, I want to be clear that I'm not opposed to this committee looking at this.

Mr. Brian Jean: Mr. Chair, I would suggest deferring it and asking the mover to provide a list of witnesses that he would suggest might be appropriate, and then maybe we can deal with it in the next meeting or a steering committee.

Frankly, it seems like it's something that would really be more appropriate in the industry committee, or the international trade committee maybe even more so than industry. I agree with you that it touches on all of them, but certainly I think it touches on those two committees much more than this. Maybe if we could see somewhere to focus....

I'm even open, and the government's open, to having extra meetings to deal with it if necessary.

The Chair: For the information of the committee, we do have Thursday set aside to talk about the report, but also we could probably find a little time....

Again, if Mr. Volpe, who is presenting the motion, wants to vote on it, we can do that.

Hon. Joseph Volpe: As I said, Mr. Chairman, all it is, for me, is the establishment of the principle that we are going to deal with this. I'm quite prepared to deal with when it will fit in our schedule at a subsequent meeting, but I'd like to deal with the issue today.

• (1300)

The Chair: Okay, Mr. Volpe has called for the vote.

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

The Chair: Thank you.

The meeting is adjourned.

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