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Chair

Mr. Merv Tweed

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• (1630)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon, and welcome back, everyone, to the Standing Committee on Transport, Infrastructure and Communities. Pursuant to the order of reference of Wednesday, December 8, 2010, we are studying Bill C-33, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act.

Joining us today we have the Honourable Rob Merrifield, Minister of State for Transport.

We welcome you, Minister. I know you've been here before, so you're familiar with the routine. I'll ask you to make your opening comments, and then we'll move to questions and answers.

Hon. Rob Merrifield (Minister of State (Transport)): I appreciate that very much. I want to introduce Luc Bourdon and Carla White-Taylor from the department. They'll have answers to perhaps some of the technical questions, if we get that deep.

We're certainly pleased to see this piece of legislation move forward and to be able to get to committee.

It's interesting that we chose a day that is the 25th anniversary of a very serious accident that happened in my riding, as 23 passengers and crew died and 95 people were injured when a CN rail train collided with a VIA Rail train in Hinton, Alberta. It impacted the community and the riding a significant amount, so this is actually very fitting that we deal with some of the railway safety issues.

Significant improvements have been made since that time. I'm pleased to be here supporting this piece of legislation, which is Bill C-33. It's not the safety railways act; it's the Safer Railways Act. This new bill I hope will add or amend or make some of the changes that are necessary to be able to achieve a safer railway system. We believe the proposed amendments are essential, and not only essential but also timely. They respond directly to the recommendations of two different important studies on rail safety.

As members of the committee recall, a number of high-profile derailments happened between the years 2005 and 2006, another one in my riding actually, at Lake Wabamun, which I had some first-hand experience with. That was in Alberta. There was also in British Columbia the derailments at Lillooet and Cheakamus, and in Quebec there was one at Montmagny.

All of these raised some shortcomings in the safety system. As I said, I was a first-hand observer of the Wabamun incident. The last estimate was that CN's cleanup and compensation costs for that

incident were over \$130 million. When an accident happens on rail, it's very costly, in human costs, in financial costs, and very much potentially in environmental costs. So whatever we can do to mitigate these is where we want to go.

These incidents provided an impetus for the Minister of Transport to launch, back in 2006, a review of the Railway Safety Act. The objective was to identify possible gaps in the act and to make recommendations to further strengthen the regulatory regime. The Minister of Transport then tabled the review panel's final report in the House in March 2008, and that contained 56 recommendations to improve rail safety in Canada.

This committee, the Standing Committee on Transportation, Infrastructure and Communities, began its own study on rail safety in 2006. It accepted the review panel's recommendation and then actually tabled its own report in the House in May 2008, with 14 recommendations that actually built on those of the Railway Safety Act review.

Both reports identified key areas for improvement and recommended increasing Transport Canada's resources to allow it to strengthen the oversight and enforcement capacity and to implement new safety initiatives. Transport Canada has taken action on those recommendations through a variety of government, industry, and union initiatives, and through the proposed legislative amendments that we're asking for here to the Railway Safety Act. The amendments contained in this bill will further improve railway safety and make it more consistent with legislation on other modes of transportation such as air and marine.

Four key components of the legislation are new powers to crack down on rule-breakers, with tough new monetary penalties as well as increased judicial penalties, to strengthen safety requirements for railway companies, to create whistleblower protection for employees who raise safety concerns, and to require each railway to have an executive legally responsible for safety.

Additionally, railway companies will be required to obtain a safety-based railway operating certificate before they begin or continue to operate. The legislation includes a phased-in approach on the regulatory authority of the government to provide flexibility for smaller short-line railways to have a different risk profile than the large class A railways. And I think that's an important thing to note, not to be too hard on the short lines.

•(1635)

The amendments clarify the authority and the responsibility of the minister with respect to railway matters, stating that the act applies with respect to all railway matters within the legislative authority of Parliament. This will ensure that all companies operating on the federal tracks will be subject to the same high level of safety requirements.

Finally, to protect our natural heritage from potential harm, the importance of the environment and environmental management is also a good part of the emphasis of this piece of legislation. I know that full well when you saw what happened in Lake Wabamun, and let's hope that never happens again. While the amendments allow for the creation of more regulations, it's important to remember that an independent safety review panel recommended such amendments after very thorough research, very thorough consultation and consideration. The government agrees with their recommendations for the items that fall within federal jurisdiction because they will increase public safety of Canadians. It'll contribute to a stronger economy and cleaner environment. The rail industry is the backbone of our economy. Almost 70% of our goods and produce travel on rail. It's part of our historic legacy and should continue to serve Canadians well into the future.

I urge the committee to study the legislation very closely. If minor technical amendments can give more clarity, please bring them to my attention. Notwithstanding any minor amendments, I ask all parties to work together on this piece of legislation. It's really very much in the interests of all Canadians. It's got nothing to do with politics; this is all about safer railways and a culture of changing those safer railways. It's important that we get this piece of legislation through in a prudent manner. I hope the committee will give it its full attention and move it along quickly.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Minister.

Mr. McCallum.

Hon. John McCallum (Markham—Unionville, Lib.): Thank you.

It certainly is our plan on the Liberal side to work diligently on this bill.

My first question is on another matter, which is the rail service review. I thought the final report was supposed to be out by the end of 2010. I gather it's still not out. Could you tell us when it will be out and the source of the delay?

Hon. Rob Merrifield: Sure, I can give you an indication. It was in English on my desk just prior to Christmas; it's being translated right now. My government is preparing to give a response to the report. It'll be out very soon. I don't have an exact date for you, but I can assure you it will be quickly.

Hon. John McCallum: In a matter of days or weeks or months?

Hon. Rob Merrifield: I wouldn't say months, but we expect it within a short period of time. I'm not trying to avoid the question; I'm just trying to give you as straight an answer as I know, and we're trying to move it along as quickly as possible.

Hon. John McCallum: Another issue has to do with Bill C-33, with local transit authorities operating light rail, subways, or streetcars—for example, GO Transit in Ontario. I understand that C-33 will apply to at least some of these. To the extent that's true, will this new legislation impose additional costs or regulatory burden on outfits like GO Transit? Is that being considered in this legislation?

Hon. Rob Merrifield: Yes, it is, and that's part of what we're saying, that short lines and smaller operating trains should be regulated and have the burden in accordance with risk. But as far as an operating certificate—that's what your question directly asks—are they going to need one? Yes, they will need one. It seems odd that when it comes to rail safety we would impose a full operating certificate on goods and services but not people as they move. It would be difficult to argue that you shouldn't have an operating certificate and the kinds of things that entails when it comes to GO Transit.

•(1640)

Hon. John McCallum: Taking GO Transit as an example, could you say anything to us about the nature or extent of the additional costs that will be imposed?

Hon. Rob Merrifield: I wouldn't think there's going to be a lot of cost, but maybe I'll pass that question on. It's a little more technical. I'm not aware of what specific costs there might be.

Mr. Luc Bourdon (Director General, Rail Safety, Department of Transport): In Bill C-33 we make reference to a regulation that will be developed that will determine the criteria for a railway operating certificate. At the time of developing the regulation we will fully involve all the stakeholders and take into consideration every aspect of their organization. When you're talking about commuter rail, a railway operating certificate will be required by GO Transit, AMT in Montreal, and West Coast Express while they're operating on federal tracks. If they're no longer on federal tracks at any time, they won't require an ROC.

Hon. John McCallum: Oh, only on federal tracks.

Mr. Luc Bourdon: While they're operating on CN and CP.

Hon. John McCallum: Does GO Train, for example, operate much on federal tracks or is it mainly its own tracks?

Mr. Luc Bourdon: When they're on their own track, obviously, there will be no jurisdiction from Transport Canada; it will be only while they're running on CP or CN.

Presently, we have only the authority to monitor compliance with those railways. For any railways, whether you're talking about urban transit authorities or provincially regulated short lines, we only have an authority while they're running on federal track. But we only have authority to monitor; we don't have any authority to take any enforcement. So when something goes wrong, we have to impose the enforcement measure on the host railway. Most of the time CN and CP then have to deal with the provincial authority to get the problem resolved.

Hon. John McCallum: Thank you.

I have another question. I was talking with a teamsters representative today who mentioned that one of the Canadian railways was thinking of or planning on moving its rail traffic control operation into the United States. He made the point that this would reduce the regulatory power over such operations if they were in the United States and remove jobs from Canada, and also his point was that the Americans would not allow their rail traffic control people to be based in Canada. So the question is this. Would you be open to an amendment that would require rail traffic control to be located in Canada?

Hon. Rob Merrifield: I guess I'd respond that if the case can be made that it's a safety issue—and I believe that's where Americans are on it—then I think we should take a look at that. If it's an issue of just where somebody dispatches and there's not a safety concern, then you'd have a tough argument.

I invite the committee to take a look at it and give us your best information and recommendation on that.

Hon. John McCallum: Okay.

I have one last question, and you may not be able to answer this because I know it's not your department, but it is a transport issue.

Hon. Rob Merrifield: Let me give it a try.

Hon. John McCallum: Okay.

I'm quite concerned. We've had reports about an apparently large reduction in the number of air marshalls travelling on airplanes, which seems to me might potentially have implications for air security and also have implications for Canada's reputation in other countries, if we radically reduce that program and they don't.

Can you comment on that?

Hon. Rob Merrifield: All I can say is that's public safety—it's not transport—so I'm a little hesitant to get into it. Suffice it to say that where the risk dictates, air marshalls will continue.

Hon. John McCallum: All right. I guess we'll have to wait for Mr. Toews on that one.

Thank you very much.

The Chair: Thank you.

Just for the advice of the committee, too, I have signed off on a draft letter asking Minister Strahl to provide us with a copy of that report. I understand it is in translation and—

Hon. Rob Merrifield: Of the...?

The Chair: Of the report that Mr. McCallum referred to in his first—

Hon. Rob Merrifield: Are you talking rail...?

The Chair: Service review.

Hon. Rob Merrifield: Okay.

The Chair: We have sent a letter requesting a copy.

Monsieur Guimond.

[Translation]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Thank you, Mr. Chair.

Obviously, and by definition, a bill dealing with rail safety is a bill dealing with human life and it must therefore be looked at very seriously.

I worked for 16 years in the pulp and paper industry. My English-speaking colleagues who have visited plants during electoral campaigns or who have worked in that industry all know that its basic motto is always "safety first". Unfortunately, the way companies behave does not always correspond to their public statements.

Minister, you or one of your colleagues will probably be asked to appear again on the issue of safety measures relating to the repair of airplanes. Under the present system, companies can self-regulate. However, we have seen the results of such a system in the meat-packing industry and in the farm industry. I do not know if that is part of the philosophy of the Conservative government.

Does that exist in the railway industry or can people from Transport Canada appear unannounced to carry out in-depth inspections?

● (1645)

[English]

Hon. Rob Merrifield: I think that's a very good question. If I can recapture what you're saying—and catch me if I'm wrong—you're suggesting that if we just leave this up to the railway companies to monitor themselves, it likely won't happen. The culture of safety has to be something for which we set up the regulations and we make sure they're enforced.

The question, I believe, is whether this act makes certain they're enforced. We have put a considerable amount of money into making sure that does take place. I think one of the biggest things to ensuring that is in the act itself, and that is having an executive that will be held accountable if there is not compliance with the regulations, as well as having whistleblower protection. You're right, we want to set up a culture of safety in the railways, and some of the recommendations coming from this committee and past committees, as well as a review of the act, have been to put that in the act.

They are there, and it's all about changing the culture of safety on our railways. We will have inspectors to make certain they comply and we will also have the muscle to be able to penalize appropriately if they are not complied with. I hope that answers your question.

Luc would like to add something.

[Translation]

Mr. Luc Bourdon: I believe you are referring to the safety management systems. This is a regulation that has been implemented in 2001 in the railway industry, that is to say for close to 10 years. The safety management systems have never replaced our inspection system. Furthermore, the additional resources that we have obtained have allowed us to add 25 inspectors in the regions. In total, 56 additional persons have been appointed for rail safety.

It is quite clearly stated in the regulation relating to safety management systems, namely in clause 2.4, that we have to ensure that railways always comply with all existing regulations. This system would not replace the old system, it would improve it. Also, it is not at all a matter of self-regulation.

Mr. Michel Guimond: I do not want to put you on the spot but I have a question: how many rail movements are there in Canada every day?

Mr. Luc Bourdon: About 777.

Mr. Michel Guimond: There are 777 rail movements for the whole of Canada?

Mr. Luc Bourdon: Yes, more or less.

Mr. Michel Guimond: No more than that?

Mr. Luc Bourdon: That is about the daily number.

Mr. Michel Guimond: What is the total number of inspectors?

• (1650)

Mr. Luc Bourdon: We will soon have close to 230 people working in the field of rail safety.

Mr. Michel Guimond: Do you think that is sufficient?

Mr. Luc Bourdon: Considering the systems we have in place, I can tell you that at this time CP and CN are considered the two safest railway companies in North America. Their number of accidents is relatively low. It is just over one per million trains.

Mr. Michel Guimond: I had put a question to someone at CN. My colleague the minister states that executives will be made accountable. That may be good but if an executive brings a wreath at the funeral parlor and shakes the hands of the widow and the children, nobody wants that. I do not want to hold you personally responsible. Someone at CN has told me that there has been one death in the past year. There have been about 10 vehicle collisions at railway crossings. There have been suicides too.

Mr. Luc Bourdon: Yes.

Mr. Michel Guimond: I know someone — not a parent but someone I know — who waited 10 minutes for a train to arrive and quietly walk on the tracks.

I am just preparing you psychologically: we will certainly come back to the issue of self-regulation in the air transport industry.

Mr. Luc Bourdon: I can assure you there is none in the railway industry and that the bill includes two additional measures that did not exist in the past. The first one is the power to impose financial penalties up to a maximum of \$50,000 for individuals and \$250,000 for companies.

Mr. Michel Guimond: Peanuts!

Mr. Luc Bourdon: We have also raised the amount allowed in legal proceedings. It can go up to \$1 million per day of non-compliance, which we did not have previously.

The Chair: Thank you, Mr. Guimond.

Mr. Merrifield.

[*English*]

Hon. Rob Merrifield: The concern is whether we're putting enough muscle behind the bill to actually make sure it complies. There are a number of things in the bill to make sure it's monitored and that there is an executive accountable. As a government, we put \$44 million towards improving compliance by raising the number of people who are monitoring. So we're putting forward a piece of legislation with a fair amount of muscle. We're going to make sure that it's complied with. That's clear.

The Chair: Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thanks, Mr. Chair.

Thank you, Mr. Minister. It's good to see you here.

The bill is an interesting one. I want to ask you a number of questions, one of them dealing with your desire to enforce safety regulations by going from work orders to tickets. It's my understanding that in the United States, having tickets for enforcing changes is in some cases expensive for railways. They'll simply take the penalty and not do the change to the system that's required to bring it up to the safety standard. Where is the evidence that your system—by changing from work orders to tickets—will accomplish this?

Hon. Rob Merrifield: We're not going to tickets. We're going to make sure that we have legislation in place, as well as judicial and administrative penalties. That will happen, but that's not by ticket. That's by making certain all the regulations in the act are complied with.

Mr. Dennis Bevington: So you will be enforcing work orders, then?

Hon. Rob Merrifield: That's right, we'll be making certain that we work with them. The penalties are fairly stiff, but nonetheless they're not going to be in the first act. There will be an act when non-compliance is there. It is something that will happen to make certain that the culture and what is laid out in the bill is actually complied with. So, no, you're not going to find inspectors running up and down the tracks passing out tickets.

Mr. Dennis Bevington: I didn't expect that, but sometimes the penalties are not sufficient to make the company move on a particular issue. I want to make sure that this is well understood in the bill.

Hon. Rob Merrifield: For an individual, \$50,000 per day is significant.

Mr. Dennis Bevington: Well, that may be the case.

When you look at the statistics, you can see quite clearly that we do have a problem with safety in Canada, and that's for those people around a railway. How will this bill reduce the number of casualties that we now have in this system? We now have between 50 and 70 deaths a year from level crossings or for people on the trains.

• (1655)

Hon. Rob Merrifield: Well, as the government, I'd agree with you that that's a very good question, and we've put money where our mouth is. We're seeing the incidents go down significantly, but one death is one too many. I'm not saying that we can't get better. We have to get better. But we have seen a great improvement. We've put \$28 million into rail grade crossings. That's a program that is identifying the riskiest crossings. We're working down and making some very good gains on that side of it.

But that's not enough. We have to change the actual culture of safety in our railways. We have to make certain that this piece of legislation is brought into force as quickly as possible and that some of the amendments that you and members of this committee have worked hard to bring forward actually get put into law. That's why this is a very important piece of legislation. It will go a long way to addressing some of the concerns—

Mr. Dennis Bevington: Is there anything in the legislation that will drive companies to fence their tracks to a greater extent than they are now?

Hon. Rob Merrifield: The bill makes certain that railways can deal with.... The railway certificate is going to be worked out to make sure that the regulations actually comply with and enforce what the intent of the bill actually is, which is safer railways, and that's right from environmental risks, to human risk, to the potential for any derailment. There's an opportunity to do that in the regs—

Mr. Dennis Bevington: So really, the regulations are what's going to determine the actual direction that rail companies have to take with these issues. There's no overriding principle here about—

Hon. Rob Merrifield: It's like any other piece of legislation. The act is the act, giving the overlying principles and the muscle to make it happen. The regulations will give you the minutiae of what has to be complied with.

Mr. Dennis Bevington: Let me understand this, then. You will be able to move into areas where rail companies have existing licences and ask them for major improvements...?

Hon. Rob Merrifield: To operate, you will have to have an operating certificate.

Mr. Dennis Bevington: And that operating certificate that exists now, once this bill is passed, will.... What's the nature of the grandfathering of the regulations within this bill? If we have new regulations, will these regulations be binding on companies with existing operating certificates? How does that work?

Hon. Rob Merrifield: Yes, they will. As I mentioned in my remarks, before you're issued an operating certificate—and everyone on a federal track will have to have an operating certificate—they will have to comply with that certificate.

Mr. Dennis Bevington: Do I have some time?

The Chair: One minute.

Mr. Dennis Bevington: Say, for instance, you're looking at systems. This is one thing that was brought to my attention. I'm not an expert on railways; I come from the Northwest Territories. But the fact that in this country we don't demand automatic systems for red lights on our trains is something that has been brought to my attention as a safety concern.

Trains are not automatically brought to brake when there's a red light on. In Canada, it's still done manually. Would that come under the provision of regulation or would that necessarily have to come at a higher level?

Hon. Rob Merrifield: I'm not an expert trainman myself, so I'll ask Luc to answer that one.

Mr. Luc Bourdon: I think what you're referring to is what we call positive train control. If a locomotive engineer is about to run through a red signal, for whatever reason, and he's not slowing down

or stopping, a system will override a locomotive and bring the locomotive to a stop. Or if he's about to take a switch that is in reverse position, the locomotive will come to a stop as well.

That technology is currently being looked at in the United States. The U.S. Congress, through the Rail Safety Improvement Act, required all railways operating on mixed traffic, that being freight and passenger and where there is highly toxic material, to implement positive train control by 2015. However, the cost-benefit ratio is currently 22 to 1. They're working all the bugs out of that system. In the meantime, we're waiting to see how they're going to manage that system. We're going to look at it to possibly eventually do the same implementation in Canada.

• (1700)

The Chair: Thank you.

Mr. Bevington.

Mr. Dennis Bevington: This is just for clarification. Was that through regulations? Is that how you drive that particular thing?

Mr. Luc Bourdon: It was done in the States by the U.S. Congress, not by the FRA. For us, it would be either through regulations or rules. We have all the power in the current act to do it, if we wanted to do it.

The Chair: Thank you.

Mr. Trost.

Mr. Brad Trost (Saskatoon—Humboldt, CPC): Thank you, Mr. Chair.

Mr. Minister, when you were giving your opening remarks, you described a little bit of what the government had done for consultations in preparation for this legislation. Is there anything more you would like to add to that? Is there anyone else whom the government consulted, other than those you noted in your opening statement?

Hon. Rob Merrifield: I think it's important. In our consultation, players all had input...that they buy into this piece of legislation. If you're going to change the culture, everyone has to be part of it.

That's really the true intent of the bill. It's not to say "I caught you" because you didn't comply with something; it's about changing the culture and saving lives and equipment and so on and protecting our environment.

So we consulted widely. Stakeholders included the railway companies, industry associations, railway employees, the unions, railway customers and their associations, municipalities and their associations, provincial and territorial governments, aboriginal and environmental groups, emergency response groups, the public, Transport Canada, and other federal departments and agencies. I don't know whether I've missed anyone in Canada, but I think that covers pretty much everyone.

We have a tremendous amount of user support and interest support. In fact, I don't know anyone who is saying this is a bad idea, that we shouldn't be going here. The consultation is one thing. It is extensive and it is broad, but what is really most important is that people and both railways and those using the railways are saying that this is something that is overdue and that we should implement.

Mr. Brad Trost: This legislation introduces some new oversight tools. Can you give us a brief summary of what you feel the main ones are and why they were included?

Hon. Rob Merrifield: Yes. The first of the oversight tools is the operating certificate. This certificate is a compulsory part in the act. If you don't have it, you're not running. It is very important that we make sure it's complied with.

We also make sure that it's complied with on a risk-based analysis, so that the two major railways in the country are not going to have a problem getting an operating certificate, that they are going to comply. They are large enough to be able to handle that. We are going to have to make sure that all the other railways that have less risk, short lines, are not disadvantaged too terribly and yet still comply with an operating certificate that meets the risk.

Those are things that are here in the act. If you can improve them in any way as a committee, take a look at it, but this is certainly something that I think will go a long way towards dealing with oversight.

Mr. Brad Trost: There's a difference between oversight and enforcement. It's not just in oversight that the bill makes a certain number of changes; it also gives certain new enforcement tools.

Can you provide the what and the why for the new enforcement tools?

Hon. Rob Merrifield: The enforcement tools are very important. There are not only administrative penalties but also judicial penalties. If you are not going to comply with this, you're going to pay a price.

It's not that it's not tested. It's tested in the aviation and in the marine sectors. These penalties apply similarly to those in these other modes of transportation: \$50,000 for an individual, \$250,000 for a corporation. That's for each day of non-compliance; it adds up in a hurry.

The second thing is that on the judicial side it's been there for 20 years, but we're talking about \$1 million for a corporation or \$50,000 for an individual for each day of non-compliance, so it adds up in a hurry as well.

Some people may say these are too strong. Well, I don't think they're necessarily too strong, because they're not the first thing that will happen. The first thing that will happen is that the inspectors will say you're in non-compliance and that such and such needs to take place for you to comply. It will be when there's resistance to making certain that the safety issues are addressed.

So it won't be "I gotcha"; there will be a fair amount of negotiation between the user and Transport Canada before Transport Canada will actually impose the penalties. But the penalties will be imposed, and imposed aggressively, if non-compliance is there.

● (1705)

Mr. Brad Trost: One of the interesting things I saw in this bill—you mentioned it in your remarks, too—was that there would be an executive in each company who is responsible for safety. I don't know whether I have ever seen that in anything else. Again, I'm fairly new to this committee; this is the first year. I've been on it since the fall.

What was the reasoning behind it? And could you elaborate a little more on what this executive would be responsible for? Is it for all companies, even short lines—everyone involved?

Hon. Rob Merrifield: I actually think this is one of the—perhaps you're right—more unique tools in the bill, but the one that I think will actually make the biggest difference. If you're that executive and your neck is in the noose, you're going to make sure it's complied with.

It's not just that the corporation and those who run the rails will say, okay, we have to comply with the certificate. That's one thing, but when you have named an individual who is an executive of that railway and that individual is personally held responsible, I believe you'll get better compliance. This is really what this is all about.

It's interesting. I was there first-hand at the Wabamun spill. Just to give you an idea of how difficult it is, if you don't have a plan and have not well thought out what emergency situations can present themselves to the corporation, when I was there.... Railway is a Transport matter. But once you have a fluid move off the railway site into a lake—once it's between the railway and Lake Wabamun—well, that's Environment. And once it gets into the lake, well, that's Fisheries and Oceans. And once it gets to the other side of the lake, that slick is in first nations territory, which is Indian and Northern Affairs. And this is the same provincially as federally.

So the stalemate was, whose jurisdiction was it to deal with this thing? There was no plan. I remember sitting in the back of a pickup, after I had just gone for a helicopter ride over Lake Wabamun. We came down, and they said, what do you think we should be doing here? I said the water skiers should be moved off the lake so that they don't disrupt all that oil slick. They said, we don't have jurisdiction.

These are the kinds of things that have to be corrected before a disaster. You have to have a plan in place; you have to make sure that everyone understands it. You have to know that you have the boom material there, and so on.

At any rate, it is very important that we have a plan in place, that it's complied with, and that we have a culture of safety taking place.

The Chair: Thank you, Mr. Minister.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Thank you, Mr. Minister and associates.

Minister, my question to you is this. Why are the urban transport authorities being impacted by this bill so concerned when they have a stellar safety record? That's my first question.

And how are you going to protect the taxpayers by the inclusion of urban transit authorities in this bill?

Hon. Rob Merrifield: If your question is, when it comes to urban.... Is this what you're saying, that they weren't consulted?

Mr. Sukh Dhaliwal: Yes.

Hon. Rob Merrifield: Actually, that's not true. When we announced this piece of legislation, we did it down in Oshawa, because Oshawa, Ajax, Pickering, and Whitby were very concerned about this, because they had just had a major spill.

We consulted with them and with all the mayors across the country. It's very important that they have the input and make sure that this culture of safety is something they're very concerned about, because when it comes to their urban dwellings, there is a lot at risk. All of these trains go through these urban centres.

I don't know exactly what, further, you're talking about. Maybe I missed your question exactly.

Mr. Sukh Dhaliwal: My particular question is this. I come from the greater Vancouver area. When we consult TransLink authorities, why are they so concerned about this bill, if you have already reached out to those authorities and have consulted with them? Isn't it that this bill impacts taxpayers in a very negative way? When it comes to TransLink, they have a great safety record in the system.

• (1710)

Hon. Rob Merrifield: What you're asking is why they would have to comply with a certificate. Is that what your question is?

Mr. Sukh Dhaliwal: Right.

Hon. Rob Merrifield: They will comply if they're intersecting with federal track, as was just described. If you're hauling passengers on a federal track, why would you think you'd be exempt from safety? In fact, you would almost think they would be the first ones who should be there, and not the ones who should be exempt. That will be worked out.

I don't know, Luc, if you have anything further to add to that.

Mr. Luc Bourdon: For us it's an issue of accountability right now. We don't think it's going to cost money to do it. Right now they have to comply with the rules of the host railway. The railway operating certificate will basically tell us which rules apply to them. We'll give them the ability as well to ask for exemptions, to have a regulatory regime tailored to their own operation. Right now, for instance, as an example, when one of their cars has some wheels that are not in compliance, we have to go after CN or CP. We have to take the enforcement measure on the host railway so they get the commuter rail to fix these wheels. The railway operating certificate would allow us to go directly to the railways that are in non-compliance and ask for the situation to be fixed.

The second thing is that the railway operating certificate will be determined by a regulation, and at the time of that regulation, all the stakeholders will be consulted, and therefore the urban transit authority will have a chance to talk to us and let us know how we can adapt that tool to their own operation. We've been very clear to all the provincially regulated railways, such as the transit authority, in saying that we would listen to them and try to have a tool that would suit their operation.

Mr. Sukh Dhaliwal: So when you say that it's just a matter of accountability and there are no additional costs, are you certain?

Mr. Luc Bourdon: There shouldn't be. That's part of doing good business. Some of these urban transit authorities have already developed a safety management system, and they have them. Some of them are inviting us to do audits on their property, although we can't at this time because they're not regulated. It shouldn't cost a lot to do it, and I think it's part of good safety business to have these tools in place.

Mr. Sukh Dhaliwal: So when we move different types of cargo on different tracks, would there be different regulations in place? How are you going to balance moving goods efficiently and being economically competitive with the other ports, such as ports in the U.S., while at the same time we have those safety standards?

Mr. Luc Bourdon: As far as we're concerned, regulations apply to all railways. The same rules can be adapted to the type of operation, but everything is done from a risk-based perspective so there's nothing that will conflict or that will put one railway against the other and make it less safe than the other. That's all taken into consideration the way we're doing it.

Hon. Rob Merrifield: About the only cost would be if you had an operating certificate. To get that, you would have to change something to comply with safety. There might be a cost, but that would be in their best interest as well.

The Chair: Mr. Gaudet.

[*Translation*]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chair.

I would like to come back to a previous statement. Earlier, you said that you only inspect CN and CP. Is that correct?

Mr. Luc Bourdon: No. At this time, there are close to 31 railway companies under federal jurisdiction. They all come under Transport Canada.

The situation is different for provincially regulated companies. When they use federal tracks, it is the host railway that is held accountable if some measures have to be taken, which means that we do not have jurisdiction.

You may have heard of the Agence métropolitaine de transport, in Montréal. When AMT operates on CN or CP tracks and there is non-compliance, we cannot act against AMT, we have to act against CN or CP for them to correct the situation. That is one of the deficiencies of the existing legislation.

• (1715)

Mr. Roger Gaudet: If there is an accident, is it Transport Canada that will have jurisdiction?

Mr. Luc Bourdon: If the accident happens on CN or CP tracks, the Transport Safety Board will be the organization tasked with doing the investigation, anywhere in Canada.

Mr. Roger Gaudet: Earlier, you mentioned inspections. You said that you carry out inspections for 31 railway companies. How many inspectors do you have?

Mr. Luc Bourdon: Once we get everything relating to the review, we will have about 200 to 230 employees.

Mr. Roger Gaudet: To inspect the railways?

Mr. Luc Bourdon: We have an infrastructure program which includes tracks, bridges, tunnels, signals and crossings. We also have an equipment program which applies to locomotives and cars, as well as an operating program to control how the trains are operated. We check the qualifications to ensure that everyone is in compliance.

Mr. Roger Gaudet: Talking about compliance, we often hear disabled persons talk about the problems they have on the trains, especially in the washrooms. Do you...

Mr. Luc Bourdon: Accessibility is a matter coming under the Canada Transportation Act and is therefore regulated by the persons implementing that piece of legislation. They have received complaints from people with reduced mobility about the accessibility of washrooms on the trains of VIA Rail.

Mr. Roger Gaudet: So, it is not one of your concerns?

Mr. Luc Bourdon: It would be only if one could establish that the safety of those persons is jeopardized.

Mr. Roger Gaudet: How many times each year do you inspect those 31 railway companies?

Mr. Luc Bourdon: It is based on their compliance profile. We do that on the basis of risk. Those companies that, based on what we know about their operations, have a very high compliance level would be inspected less frequently than those that do not have a similar level of compliance. So, it varies. Since CN and CP are responsible for about 72% of all the rail traffic in Canada, a good chunk of our time is spent with those two companies.

Mr. Roger Gaudet: Apart from CN and CP, are there many accidents? I am referring to the companies making up the remaining 28%.

Mr. Luc Bourdon: There are some but not many.

Mr. Roger Gaudet: It is similar?

Mr. Luc Bourdon: Yes, the proportion is roughly the same.

[English]

Hon. Rob Merrifield: It's important to know that the railways are appreciative of this, and it's not that they are not concerned about safety. They are. They know when there's a derailment, an accident, this costs them a lot of dollars. The last thing they want is a derailment. They really are wanting to comply with whatever is needed to make sure they can run safely. This is actually a win-win situation, a win-win bill for everybody.

[Translation]

Mr. Roger Gaudet: Thank you, Minister.

[English]

The Chair: *Merci, Monsieur Gaudet.*

Ms. Gallant, welcome to our committee. You have five minutes.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): Thank you, Mr. Chairman, and through you to our witness.

Minister, you mentioned the federal railway crossing improvement program, stating that projects are prioritized according to the level of danger. What data or statistics are used in order to determine what constitutes a level of danger? How do you put in order of precedence which rail crossings need to be done first?

Hon. Rob Merrifield: I don't do that, as the minister. It's done by a committee of experts who look at the risk, the volume of traffic, the grade, the sight lines, all of the things that go into crossing safely. Then they assess them. I don't politically interfere with that. I just say let the experts decide, discern based on the criteria, and we roll the program out.

We can't do them all at one time, but we've been rolling it out over the last couple of years. I'm sure most everyone here has had some experience of good changes to rail grade crossings in their ridings or constituencies. We'll just continue to do that good work, but it's the experts who make that determination.

Mrs. Cheryl Gallant: Is it based on the number of accidents or the number of deaths?

Hon. Rob Merrifield: For some it's the number of accidents. All of it is part of the criteria. The number of incidents would certainly factor into it, but it's also the volume of traffic, sight lines, speed of traffic, all of those and probably more.

Maybe Luc could give us even more criteria.

• (1720)

Mr. Luc Bourdon: First there is the history behind the crossing, how many accidents. There's the cross-product of vehicles and trains; whether something happened recently; the number of complaints we receive; if for whatever reason there has been a lot of urban development around a crossing where there was no history three years ago and now it's becoming more problematic. As well, we'll do a risk assessment of the crossings and we'll determine which ones should be dealt with first. That's how we determine the list.

So far, statistics have shown that for the crossings that were improved, accidents went down by more than 80%, so it's pretty effective.

Mrs. Cheryl Gallant: On the topic of urban development, Minister, as you know, there is going to be a lot heavier traffic going into the GTA. For example, CP is bypassing part of eastern Ontario and taking the direct line right to Toronto. If anything needs to go from eastern Ontario, it goes to Toronto and then back up. This causes greater congestion and more rail traffic on the way to the GTA.

In addition to more urbanization, what measures would your ministry be taking to further safeguard the people in Toronto? They, too, have had a major derailment in addition to the one you described recently. Back in 1979 or 1980 there was a derailment in Mississauga that required an evacuation as a consequence of chlorine gas, I believe it was.

What can you tell us that we're doing, as a government, to ensure the safety of the people in the Toronto area?

Hon. Rob Merrifield: It's a very good question. In the Pickering area there is a stretch of railway where I think there is some of the highest density of train traffic in Canada. There were a number of derailments. We want to assess every one of those and discern what can be done to mitigate the kinds of risks that are there. This act will help, certainly. But there is a continuous assessment on the grade-crossing side of it to try to alleviate the pressures there. As you said, if we can improve 80% just with this one program alone, that's very significant.

We have seen a continual reduction in the number of incidents of railway deaths and accidents over the last couple of years since this program started. We still have too many. I'm not saying we're there yet. I'm just saying that we have come a long way, but we have to continue the pressure to be able to address that situation.

With regard to volume of traffic, the railways make those commercial decisions. We don't interfere that way. They're not changing the track; the track is there. We're just trying to make sure that when they run on that track it's as safe as it possibly can be.

Mrs. Cheryl Gallant: Are there inspections of the railbeds as well?

Hon. Rob Merrifield: Yes, railbeds, rolling tracks, and so on.

Mrs. Cheryl Gallant: We talked about derailments and accidents. Aside from derailments, going specifically to accidents, and I'm not talking about suicides, but what sorts of reasons are behind the accidents that occur at rail crossings or otherwise?

Hon. Rob Merrifield: There are a multitude of them, and every one of them gets inspected and analyzed. Sometimes it's weather; sometimes it's somebody not paying attention. There are all kinds of reasons. It's no different from any major accident in the air. We want to inspect it. We want to learn from it. We want to try to address it. If there is something we can do to make it safer, that's where we want to go. It's all part of the culture of safety that we need to make certain that we continue to promote when it comes to rail.

Railway traffic movement, both passenger and produce, is going to do nothing but increase in Canada. We have some of the safest railways in the world. That doesn't mean we can't do better. We have to keep the pressure on.

That's what this bill really is all about. It's because of the good work of this committee and the good work of the review of the act earlier that these recommendations are coming forward. We've put them in this bill. Hopefully we'll be able to make some very good changes.

• (1725)

The Chair: Thank you.

Minister, many of my communities have benefited. They believe strongly in the upgrades to the crossings. I know it's an ongoing challenge, but there is a lot of demand out there, and whatever you can do would be greatly appreciated.

I'm going to give every side one minute for one final comment. If you don't have one, that's fine. Then we'll move to the end of the meeting.

Mr. Bevington, one minute.

Mr. Dennis Bevington: It's my understanding there are about 44,000 crossings in Canada. Is that the kind of number we're dealing with? And we're dedicating \$21 million—

Hon. Rob Merrifield: It's \$28 million.

Mr. Dennis Bevington: —\$28 million—to crossings that in some cases to fix in a proper fashion cost hundreds of thousands of dollars. Is that correct? We have a way to go in terms of the financing of it.

What in this bill would drive companies to improve their standards for level crossings without the support of the federal government?

Hon. Rob Merrifield: All of the things to make sure they comply.

Every crossing has different reasons for why there was an incident there. They have to be inspected. Was it the track? Is it the grade coming up? Is it the lights on it? Is it rolling track or the actual track itself? There are lots of different things that can cause a problem. They all have to be discerned, and we have to address it.

All that we know is we're not done yet. We have to work harder, and we are making a considerable number of gains with regard to those incidents.

You ask if \$28 million is enough. That's over a couple of years. We've made great strides with those dollars since it was announced in the 2009 budget.

The Chair: Thank you.

A final comment, Mr. Jean?

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

Thank you, Minister and officials, for attending today.

In particular, I want to let you know, Minister, that all the committee members, including Mr. McCallum and Monsieur Guimond and Mr. Bevington, from all parties, have agreed to have extra meetings so we can make sure all regular meetings are going to be for Bill C-33 until it's put through. I want to let you know that all members have agreed to do that, so that we have extra sittings. I think that shows cooperation on the part of all parties.

I don't want to pick on anyone, but I understand the mayor of Pickering has approached you several times in relation to this particular bill. I understand other mayors around the GTA in particular are very interested in this bill. I was wondering if you could—not give us specifics on the conversations, because I understand some are in the hundreds or so, as far as the mayor of Pickering and the department are concerned—give us information on general terms, general information, general input by mayors in that region, particularly by politicians in the GTA and how they feel about this particular act.

Hon. Rob Merrifield: Sure.

When the incident happened, and there were a number of incidents over a very short number of years in that area, the mayor of Pickering—we were down and actually made the announcement there—was very excited. He read the bill, saw what we were trying to do, and said this was exactly the kind of thing he was looking for over the last number of years, actually pushing governments to bring in a piece of legislation like this.

When you're out there and you introduce a piece of legislation, you wonder who's going to support it and who's not going to support it—who it's giving trouble to and who's applauding it. I can tell you, the number of people in this country who are standing on the side applauding it is immense. The ones pushing against it are very few and hard to find. That tells you it's long overdue.

This hasn't got anything to do with politics. This piece of legislation really is in the best interest of the industry as well as the country. I certainly encourage all of your support.

Thank you.

The Chair: Thank you, Minister, and the support people who have helped us today. We appreciate your time.

Again, for the information of the committee, on Thursday we will be bringing other witnesses. We will have staff as well as other witnesses for that two hours. So come ready to ask more questions.

Thank you.

The meeting is adjourned.

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