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Chair

Mr. Merv Tweed

Standing Committee on Transport, Infrastructure and Communities

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• (1530)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Thank you, and good afternoon, everyone. Welcome to meeting number 48 of the Standing Committee on Transport, Infrastructure and Communities.

In our orders of the day, pursuant to the order of reference of Wednesday, December 8, 2010, we have 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 Mr. Cliff Mackay, president and chief executive officer of the Railway Association of Canada. I'll let him continue with the introductions.

We welcome you. You've been here before, and I know you know the routine. I'll turn it over to you and then we'll move to committee questions.

Mr. Cliff Mackay (President and Chief Executive Officer, Railway Association of Canada): Thank you, Mr. Chair.

Before I start, I should say one thing. Unfortunately, I have some health issues, so I may have to leave the room for a very short period of time a couple of times. I would ask the committee's indulgence.

The only other thing I would say is that I think it's very appropriate that we're meeting in this committee room.

Mr. Chair and honourable members, let me thank you for the opportunity to appear today to comment on Bill C-33, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act.

The Railway Association of Canada represents 52 freight, commuter, intercity, and tourism railways that make up about 99% of all of the railway operations in the country. The railway industry contributes nearly \$11 billion annually to the Canadian economy, and our direct employment is around 35,000 people a year.

With me today, representing the industry, are: Mr. Paul Miller, chief safety and sustainability officer with CN; Mr. John Marginson, chief operating officer with VIA Rail; and Mr. Glen Wilson, vice-president, safety, environment and regulatory affairs, from CP.

Mr. Chairman, we had hoped to have one of our three board members representing short lines here today, but unfortunately, with the short notice, they were all out of the country at the moment, frankly. I'd be quite happy to speak for them, but we would have liked them to be here as well.

Let me begin by saying that I had the opportunity to read the comments made by members during the second reading debate of Bill C-33, and I was frankly very pleased to see that everyone was on the same page with regard to the most important element of this legislation, that is, improving rail safety.

From the outset, I'd like to say that safety is a very high priority for our industry. I would point out that the railways have worked closely with Transport Canada, labour organizations, and other interested stakeholders to develop the action plans and recommendations flowing out of the 2007 Railway Safety Act review and the committee's reports on the same subject.

We are very supportive of the proposed legislation, and, as explained in detail in our written submission, we believe that more can be done to improve safety, even beyond what is on the table at the moment.

Without overburdening you with statistics, I'm pleased to say that the railway safety record in Canada continues to improve. Our track record might not be perfect, but it's impressive. For example, safety performance as measured by accidents per million train miles in 2010 was superior to results in 2009, as well as results when measured against the five-year average. These results were achieved at the same time that there was growing freight and passenger traffic, and we had the continuing pressure from increased exposure from urban sprawl and heavy traffic on roads.

Increased proximity between rail operations and everyday life in our communities across Canada is a risk factor that must be addressed to improve rail safety. We believe that Bill C-33 can be strengthened in this area. At the centre of these concerns involving proximity between railway lands and municipal development is the wide variation that exists across Canada with respect to land use planning regulations.

In recommendation 34 of its report, the advisory panel recommended that the Railway Safety Act be amended to require developers and municipalities to engage in a process of consultation with railway companies prior to any decision respecting land use that may affect railway safety. Unfortunately, Bill C-33 is silent on this issue at this time.

We believe that one of the most efficient ways of improving railway safety in this area is to give the Governor in Council the power to make regulations respecting notices that should be given to railways regarding the establishment of a local plan of subdivision, or zoning by-law, or proposed amendments thereto, where the subject land is within 300 metres of a railway line or railway yard. We believe the 300 metres is a distance that makes sense from a safety point of view.

Further, we also believe, as is done in the Aeronautics Act today, that power should be given to the Governor in Council to make regulations respecting the control or prohibition of any other activity in the vicinity of a land on which a line of railway is situated, to the extent that it could constitute a threat to safe railway operations.

● (1535)

Mr. Chair, we believe these two simple measures would go a great distance to reducing accidents and incidents involving railways and the general public.

Another simple measure suggested by the panel in its recommendation 35 is to limit to the extent practicable the opening of new level crossings in Canada. Bill C-33 does not currently address this issue. The current regime does not take safety into consideration in the decision to open new crossings. Presently the only criteria taken into consideration by the CTA when authorizing the opening of a crossing is the owner's enjoyment of the land in the case of private crossings. This does little to consider safety in the process. For that reason we would ask the committee to consider amending the Canadian Transportation Act via a consequential amendment to authorize the construction of crossings only when there is no other reasonable alternative and when the minister confirms that a formal safety risk assessment concludes that it would be safe to do so.

We hope you will agree with us that proximity and crossing issues require particular attention and consideration. Given the clear relationship that these issues forge between the railways and the public, the railways maintain that Bill C-33 will not result in sufficient improvement in rail safety without the inclusion of provisions addressing these issues. The railways believe that railway safety will be furthered as a result of these inclusions.

I should say, Mr. Chair, that these amendments have been consulted broadly. We have talked to the Federation of Canadian Municipalities. We've talked, of course, to the government, and we've talked to a number of other stakeholders and interested parties. While they are obviously our recommendations, we have not had negative pushback on these recommendations from other players.

In closing, I would say that if the proposed legislation did not go far enough, as the panel suggested, with respect to proximity in crossings, it went too far with respect to safety standards that railways should apply.

Recommendation 24 of the panel observed that improved safety management systems could be gained through better safety performance measures and increased focus on safety culture and a wide range of other recommendations. What it did not recommend or mention in any way was a particular measure for an acceptable safety standard.

That said, Bill C-33 extends beyond the panel's recommendation to introduce regulations that would force railways to implement, as a result of a risk management analysis, remedial actions required to maintain the highest level of safety. This proposed threshold creates a standard that may well be unattainable from a practical perspective. Put simply, it may hinder railways' ability to continue operating, a result that would create grave consequences, not just for the railways but also for the Canadian economy.

The question in our mind is, why reinvent the wheel? The question of a proper level of safety has been debated in the past, particularly during the development of the national transportation policy. I would refer you to section 5 of the CTA. In this instance, the legislation was wisely amended to include the highest practicable level of safety. The railways view a similar standard in the RSA context as both manageable and appropriate. This is one of our main recommendations.

We have other recommendations in our detailed brief that I will not go into today. I have spoken here to these three because we believe they are the three most important in advancing safety in our system.

Once again, on behalf of my colleagues and myself, I'd like to thank the committee for their attention. We look forward to working with you to improve safety in the future.

Mr. Chair, we would be pleased to answer any questions.

Thank you.

● (1540)

The Chair: Thank you very much.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Thank you, Chair. I would like to thank the panel members for coming here.

When I come here, I come with mixed emotions. When we talk about railways, I'm a great champion of the Pacific gateway. The railways will play a key role in its success. Yet I have a clear message for you here.

I don't think the safety effort is perfect, but you say it's great. The people I talk to, whether they're workers or members of the public, feel that it's not good enough. Over the past five years, you have averaged 139 main-track derailments, 24 of which involved dangerous goods. Many of these accidents were preventable. Too often I hear that your operations are attended with mistrust instead of collaboration, with good equipment but poor training, and with concern for profit over safety. This culture needs to change. CP Railways will not only be better for the environment, the public, and its workers, but they will also be more profitable for shareholders.

There's one incident in B.C. that no one can forget—the spill of caustic soda into the Cheakamus River, which killed over 500,000 fish. Two years later, the Transportation Safety Board warned CN that improvements were still not enough to prevent another similar incident.

Have you finally addressed all the problems that led to that spill?

Mr. Cliff Mackay: Go ahead.

Mr. Paul Miller (Chief Safety and Sustainability Officer, Canadian National Railway Company): Thank you, Mr. Dhaliwal.

You mentioned, first, the main-track accidents, and Cheakamus was a main-track accident. The accident subsequent to that, at Lillooet, was also a main-track accident. And that's something that we've been focused on at CN.

Main-track accidents tend to have either a mechanical or an engineering cause—a broken wheel, a broken rail, things of this nature. We've invested tremendously over the past several years to increase the density of our wayside inspection network. We have also increased the frequency of inspections for rail flaws, as well as the number of times we inspect our track for track geometry issues. Accordingly, our 2010 main-track accident experience has been the best on record. Of course, one accident is too many, and we continue to focus on improvements in this regard.

With respect to your comment about safety culture, we used the Railway Safety Act review and the study of this committee as a catalyst. We worked much harder and in a more collaborative way with our union leadership and our employees to develop our safety culture. Based on the catalysts provided by those two studies, we've undertaken a number of initiatives over the past several years, especially since 2007, to work on safety culture. We're pleased that a number of the initiatives we've undertaken at CN, in cooperation with my colleagues at VIA and CPR, have been adopted as best practices in publications that Transport Canada has recently put out on safety management systems and on safety culture.

It's always a work in progress, Mr. Dhaliwal. One accident is one too many. Can I stand here and tell you that we won't have any more accidents? I'm afraid I can't, but it's something we're tremendously focused on. Nothing is more important to us than operating safely.

• (1545)

Mr. Sukh Dhaliwal: Thank you, Mr. Miller.

Mr. Miller, last week we heard from one of the witnesses that one of the employees—a railway employee—was either fired or questioned for not tying his shoes right. When I was out in the railway yards in Ludlum, the workers asked why I was there talking

to them. I was just doing my outreach as an elected member of Parliament.

Given this culture of fear among employees, would you support creating an anonymous whistleblower line to Transport Canada?

Mr. Paul Miller: Mr. Dhaliwal, we certainly support anonymous reporting. I had this discussion, actually, with senior union officers at the last meeting of the minister's Advisory Council on Railway Safety. Unfortunately, if we put all our eggs in anonymous reporting, then we've kind of missed the boat on safety culture, because of course as part of safety culture, what we want to develop is that relationship between our employees and the front-line supervisors—we're not there yet, and we have more work to do, without question—so that our employees can talk to our front-line supervisors and say they have a concern, they have an issue, and the front-line supervisor can then react appropriately.

As part of that, we've developed a program that we call SaFE, which just stands for safety for everyone, in which management is not directly involved at all. The employees do the observations of their fellow employees. We give them training in terms of how to interact with employees when they're doing something well and also when they're doing something that needs to be corrected. Then those committees, the SaFE committees at each terminal, gather the data and report on trends and look for things they should investigate.

In terms of reporting to Transport Canada, sir, our employees have every right now to report any concern they have to Transport Canada. All we've asked is that we be given a chance. I've said it myself to our policy, health, and safety committee: if you think we're doing something wrong, if you think we're not giving the employees every opportunity to bring concerns forward, or if you think we've been too heavy handed in how we've dealt with an employee, if you're not getting satisfaction anywhere else, call me. Call me personally and I will get involved. But in terms of reporting to Transport Canada, sir, I would suggest that they certainly have that right now, and they use it.

The Chair: Thank you.

We'll go to Monsieur Guimond.

[Translation]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): It seems to me that the unions are in favour of this bill. Is that true?

[English]

Mr. Cliff Mackay: That's our understanding.

• (1550)

[Translation]

Mr. Michel Guimond: However, they are in favour of enhanced safety measures. But if I remember their testimony from last week correctly, they were very critical of companies involved in construction projects or road repairs. They did not use the term "climate of terror" as such, but they seemed to suggest that that was the feeling... I did not bring the transcript of what they said with me as I am just coming from another meeting, but I remember that they were critical of labour relations and the unequal discussions with the employer regarding health and safety. You probably heard their testimony.

[English]

Mr. Cliff Mackay: I'll ask my colleagues to comment. But with regard to what we're dealing with today, sir, you should be aware that the unions have been fully involved in everything that has seen the light of day as a result of the 56 recommendation and the other work that's gone on that has led to these hearings. They signed off on the new guidelines on the safety management system, just as we did. They sit on the steering committee I sat on, along with the ADM from the government, to ensure that all the processes are working. So I can tell you that there was no lack of consultation when it comes to what we're considering here today.

I'll let my colleagues speak to the question of the cultural issues.

Mr. Glen Wilson (Vice-President, Safety, Environment and Regulatory Affairs, Canadian Pacific Railway): First of all, I want to return to the point that Mr. Dhaliwal made about the questioning in his presence by employees of why he was present in a rail yard, and I'm going to relate this to the culture question as well.

At Canadian Pacific, we've done a great deal of security awareness training among all of our employees, and you have to recognize that rail yards are an open environment. People who are present who are not usually present, or who may not have proper safety protective equipment identifying them, should draw questions in our environment.

That's something that I'm actually relieved to hear, that employees and managers are questioning the presence of outsiders, either to look for their safety, the safety of the operation, or the security of the facility. How that links to the safety culture is that we're trying to promote an awareness among all employees at Canadian Pacific of the importance of safety and the importance of security in their workplace.

The position put forward by the union referred to, I believe, 6,000 grievances. I had that looked into at Canadian Pacific. There are 400 outstanding grievances. Most of them were late-to-work rules. So I think you'd agree, in a work force of 12,000 unionized employees, that's really not a bad number.

I try to remove a lot of the rhetoric that comes from labour relations and look purely at the facts. We have 80% of employees telling us, as a result of surveys that we do, that they feel their workplace is safe. That number has gone up with every single survey that we've done at Canadian Pacific. We have reporting processes

that allow employees to report, anonymously if they wish, through a confidential hotline, any safety concerns, or they can report them to their manager by filling out something called a safety hazard report.

The benefit of the safety hazard report is that it requires the manager to answer the employee as to what corrective action, if any, was taken in response to the report. We find that the vast majority of employees prefer the safety hazard reporting process, even though they must identify themselves. They prefer that because it gets them an answer. If you know the identity of the individual, management can answer as to what corrective action was taken in response to the safety hazard.

We have a multitude of processes available. As Mr. Miller said, can it be improved? Absolutely, safety and effective management is about continuous improvement.

[Translation]

Mr. Michel Guimond: Don't take all of my time. If the committee wants to give me two more hours, I will let you have the floor.

I am surprised to hear you say that 6,000 grievances for 12,000 employees is not very much. I would like you to tell me what you would consider to be a lot of grievances, what would the threshold be? Would it start at 6,001, 6,002, 8,000, 12,000, 15,000 or 20,000? That is my first question. In a previous incarnation I worked in labour relations, for 16 years. I have discussed, settled, arbitrated grievances. I was not an arbitrator, but I did argue and defend some of them in the course of the 16 years I spent in the pulp and paper industry.

Could the three companies that are before us ask their human resources people or labour relations team to provide us with a breakdown of grievances by subject? I have a lawyer's training. When a lawyer asks a question, it is because he already knows the answer. This exists and I would like to have the breakdown of grievances by topic. In other words, of the 6,000 grievances from the 12,000 CP employees, how many deal with safety in the workplace? Some of the 6,000 grievances may concern the interpretation of call-back provisions, overtime, etc.

When I was director of personnel, we had a very militant union that had filed a grievance asking that we support a campaign to boycott California grapes and bananas from Angola. That was one grievance. I saw a certain number of grievances. My vice-president in Montreal used to climb the walls when I would come in and tell him that I had more grievances on that.

And so I do not agree with you when you say that 6,000 grievances is not very many. I would like the three companies to tell us how many health and safety grievances they have pending currently. I want to know whether we are talking about a real issue. If we are talking about 15 or 20 grievances for 12,000 or 15,000 employees, there is no health and safety issue.

• (1555)

[English]

The Chair: *Merci*, Monsieur Guimond.

What I might ask—

[Translation]

Mr. Michel Guimond: Please convey that to the clerk.

[English]

The Chair: —is that you would forward it through me to the clerk. We'll distribute it amongst the membership.

Mr. Bevington.

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

Thanks to the witnesses here for the reports you've given and the time you've taken to inform us individually on some of your issues.

I want to go after the rail crossing issue first because it's one that I feel is very much not represented in this bill, much as you think. First of all, I want to talk to you about the statistics you presented here. There was a fairly significant downturn in the number of crossing collisions, say, between 1992 and through that decade of the 1990s. We saw a pretty steep downturn. Could you tell me how that was accomplished? How did that come about?

Mr. Cliff Mackay: We ran a major program with the government during that period of time, which was a part of an ongoing program called Operation Lifesaver. It is a public awareness program that tries to make the public more aware of the dangers of trespassing on railway property and railway crossings and these sorts of things. We still run it, but we topped that program up with government help by about 100%. In other words, we doubled the effort of the program.

We did a lot of work in schools. We had public announcements on radio and this sort of thing. It targeted very much the younger people. It made a difference. Basically over 10 years it cut the number of fatalities and whatnot in half. We believe there's more we could do.

As we said, one of the things we believe we should be doing is being more aggressive in trying to close crossings that really aren't necessary and also slowing down the rate of new crossings being opened.

Mr. Dennis Bevington: Your amendment would speak to opening new crossings, but it really wouldn't deal with closing crossings.

Mr. Cliff Mackay: No, that's correct.

Mr. Dennis Bevington: The minister has presented that the government has put \$21 million into these crossings. We have heard evidence that there are 44,000 crossings in Canada. Do you assign grades...or levels to these crossings?

I've got to get away from those terms.

• (1600)

Mr. Cliff Mackay: I understand what you mean.

Mr. Dennis Bevington: Do you give them certain positions in a safety chart? Could we have that information given to us, where we would understand how many of the 44,000 crossings have been brought up to a certain standard? How many of them should be brought up? Which ones represent real safety concerns? What should we be doing with the ones that may not be as serious a safety concern but still need some upgrading? Is that information available?

Mr. Cliff Mackay: We can give you some of that information. One of the problems with crossings in Canada is that, particularly on

the private side, the data is not as good as it should be. We can certainly give you data on the public crossings and some of the private crossings, and we can certainly give you a sense of where the risks are highest.

Mr. Dennis Bevington: Is not the company that owns the railroad responsible for the risks of the crossing?

Mr. Paul Miller: I would certainly agree with that, Mr. Bevington. At CN, and I'm sure at both VIA and CPR as well, we have a list of crossings that we have prioritized due to either the nature of the sight lines involved or the nature of the operation adjacent to that crossing—for example, if there's switching going on over top of that crossing—and if there's a proximate crossing that could be used by the public with minimal inconvenience. We would very much like to work with both Transport Canada and the municipality in terms of closing them.

Mr. Dennis Bevington: So you've got some information. It's \$21 million that the government has put forward. Is that just a drop in the bucket of dealing with 44,000 crossings to bring them to a level of safety that would be acceptable and represent the best technology applied correctly to the different locations?

Mr. Cliff Mackay: Clearly more money would be helpful. But it isn't just money. There's also very much a focus of people on the issue.

I'm just going to ask Mr. Marginson to speak very briefly, because they've been doing some of this very recently.

Mr. John Marginson (Chief Operating Officer, VIA Rail Canada Inc.): I should contextualize this by first saying that we don't own a lot of track. We own roughly 160 miles of our own track. Primarily our operations are on CN and to a lesser extent CP track.

Having said that, if you can close one crossing, two crossings, several crossings, it's that many crossings reduced and that much risk reduced. As an example, I'll speak a little bit about what we refer to as our Alexandria subdivision. It's actually the subdivision from about Côteau, Quebec, into Ottawa. On that relatively short piece of track—it's roughly 70 miles—we have 98 crossings, let's say a hundred crossings, over 75 miles or so. We've been able to contact private landowners who have private crossings over that 75 miles and we've slated for 2011 to close about half of those crossings. But I'm telling you it's tough slogging. It's tough work, because basically you have to go and knock on doors, go into people's kitchens, sit down at the kitchen table, and talk about this thing.

Mr. Dennis Bevington: With the dollars being invested with the federal government, is there a shared relationship on these dollars? What's the relationship?

Mr. Cliff Mackay: Yes, railways almost invariably put money into crossings as well. The actual relationship really depends on negotiation as to the public benefit and the private benefit to the railways of better safety, but railways put money into these things routinely.

Mr. Dennis Bevington: Is there a need for higher regulation on crossings so that you're all operating from the same page of the book? Is there a need for us to increase the requirement for safety at crossings in a universal way across the country?

Mr. Cliff Mackay: The way it's done now is there's a risk assessment done, and the level of requirement at that crossing is based very much on the risk assessment, which goes right back to the fundamental principles of safety management and whatnot. We would not recommend that we change that, because that's really what you're trying to do—

Mr. Dennis Bevington: But you could put the—

The Chair: Thank you, Mr. Bevington. I'm sorry.

Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair. Thank you, of course, to our witnesses for appearing today in consideration of Bill C-33.

Mr. Miller, in one of your statements you said one accident is one too many. In 2009, according to the Transportation Safety Board, there were 1,038 rail accidents, including 68 main-track derailments. I'm going to submit that there's significantly more work to do, and our government believes, of course, that Bill C-33 goes a long way toward that. It was broadly consulted on. It responds to 56 recommendations made by the special expert panel doing a rail safety review, as well as 14 recommendations by this very committee.

Mr. Mackay, I hope I haven't discerned something more than is here, but I sense a subtle shift or an intention to shift the discussion to things like the government with respect to crossings, or municipalities with respect to municipal planning, when this bill responds to safety reviews about your member companies, CN, CP, and to a lesser extent VIA. When I say lesser extent, the expert panel had more favourable things to say about the safety culture at VIA than they did about the other two companies. So I'm hoping to talk about the bill.

We've had many witnesses here who have said, for example, that Bill C-33 is "the right thing to do". I'm going to ask each of the companies, CP, CN, and VIA, whether they agree, broadly speaking, about Bill C-33, that it is in fact the right thing to do. Maybe we'll start with CN.

• (1605)

Mr. Paul Miller: Yes, sir, we do. We have a couple of suggestions as per our written document, but we have no issues whatsoever with the bill.

Mr. Jeff Watson: Mr. Marginson.

Mr. John Marginson: Absolutely, it's the right thing to do. When you're carrying passengers at speeds of up to 100 miles an hour, safety is paramount.

Mr. Jeff Watson: Good.

Mr. Wilson.

Mr. Glen Wilson: CP is also a supporter of Bill C-33, and behind the submission you received is simply a desire to improve it further.

Mr. Cliff Mackay: If I could just say for the short lines, since they're not here, they would share that sentiment.

Mr. Jeff Watson: Okay, very good.

Let me bore down a little bit and get to some of the specifics, just to be sure from the broad sense.

You support the requirements for environmental management plans and compliance audits with those environmental management plans? Do each of you support those initiatives? Okay, they're all nodding yes.

The new administrative monetary penalties and the increase in judicial penalties as well?

Mr. Cliff Mackay: Yes, we'd only make one comment there, sir, and that is that they be managed at a high level inside the government.

Mr. Jeff Watson: The requirements for the rail operating certificates and the minister's authority to suspend or pull those? I'm seeing heads nodding. Okay. Very good.

Non-punitive reporting. This has been a difficult issue in consideration of the former Bill C-9, the Aeronautics Act. We didn't get consensus around the table whether it should be part of an SMS or whether it should be something else. At the time we had three parties in support of it being included in the SMS, as it's being presented similarly here. One party didn't, and it led ultimately to the bill being hoisted in the House. We may have some difficulty with respect to NPR in this current round as well.

Maybe I support your position in the sense that I think it has to be one or the other. It either has to be in an SMS system or there has to be a direct line to Transport Canada. I'm not sure, if given the choice, that workers would use both. Do you share that sentiment or not?

Mr. Paul Miller: Sir, once again for CN, we have no issue whatsoever on non-punitive reporting, and we know we have to improve our own processes in this regard. We have no issue with employees reporting directly to Transport Canada, and we do see it as part of an SMS. Again, just with the comment I made a moment ago that it can't be the be-all and end-all, we do have to develop and continue to work on that relationship, employee to front-line supervisor, to have that trust.

Mr. John Marginson: Certainly we also are not concerned by non-punitive reporting.

Mr. Jeff Watson: Whether it should be one or the other is more what I'm getting at. I'm not sure, if given both, whether both would be used.

• (1610)

Mr. John Marginson: Absolutely. VIA has been working with its safety management system since about 1998. So certainly after almost 13 years of working with safety management systems we see the value of that approach. Obviously we would be more inclined to go in that direction.

Mr. Jeff Watson: If I recall correctly, I think the rail safety review report, on a scale of one to five, five being the best, ranked the safety culture at VIA at a four. I appreciate your comments on that.

Mr. Wilson.

Mr. Glen Wilson: I was just going to add, Mr. Watson, that the safety management system has a number of other components, including the requirement to involve employees, that I think facilitate a non-punitive reporting system within that regime. We want to encourage employees to identify hazards, also a requirement of the safety management system, and work within the system that exists, not undermine or confuse by directing them to other processes.

Mr. Jeff Watson: With respect to the proximity issues and municipal planning, you've made some proposals over this. If you were given this requirement to be consulted, how do you expect to use your new powers, if you will?

Mr. Cliff Mackay: Not dissimilarly to exactly how it works now in the aeronautics world. In the aviation world there is a requirement for municipalities and others to advise if there's a development within a certain proximity to an airport. That is exactly what we're hoping will happen here. The important thing here is early notification. If you as a railway are operating in a particular area and you find out early that somebody wants to build a 30-storey condo 150 metres from a railway yard operation, you want to deal with that issue early.

Mr. Jeff Watson: Or a school for that matter.

Mr. Cliff Mackay: Or a school. You want to deal with that early, not when you see those construction cranes going up, because that's when all the problems start. So this is an opportunity to try to deal with it early. The only jurisdiction in Canada that has some reporting requirements at the moment is Ontario.

Mr. Jeff Watson: Thank you, Mr. Chair.

The Chair: Mr. McCallum.

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair, and thank you all for being here.

I happened to meet the president of GO Transit earlier today. The public transit people are somewhat concerned about the heavy cost of this new regulatory regime in cases where their trains go on CN or CP track. Do you have a view on that?

Mr. Cliff Mackay: Our view is to support their concerns, and I should say to you, sir, that they are members of the RAC. I know they are appearing later this week on their own behalf, but I'll let my colleague speak to whether or not it is a real issue for us. It is an issue for the commuters, we believe. I'm not sure it's at the same level of concern with other operators.

Perhaps, Paul, you may want to speak to that.

Mr. Paul Miller: Mr. McCallum, the commuters operate very, very safely now. They have a tremendous safety record. We find that the way we interact with the commuters and Transport Canada is quite satisfactory now. However, if the committee, in its wisdom, wants to change that approach a little bit in the legislation, we're sure that would work fine as well.

I'll just echo Mr. Mackay's comments that they'll be there to speak for themselves. And they would have a much better opinion of it than I.

Mr. Glen Wilson: I'll just echo very quickly what Mr. Miller said, Mr. McCallum, and that is the willingness to work within either system.

I understand Transport Canada's objectives. They don't want to have to deal as often through the class 1 railways that are under federal jurisdiction to deal with issues relating to commuters. I understand where they're coming from, but either system is perfectly able to be worked within from a national freight railway standpoint.

Hon. John McCallum: Thank you.

The second issue is railway crossings. As one who's relatively new to this, at least on first impression I think what you say seems to make a lot of sense. Railway crossings do have a lot to do with safety. Safety should be a factor where new ones are constructed. There should be more vigorous action to close down existing ones. It all seems to make eminent sense.

I guess my question is this. If it's all so sensible, why has it not already happened in more than a hundred years? You said there are multiple jurisdictions. You said you've consulted many stakeholders. When something that seems so obviously a good idea has not happened for many decades, there must be a reason. What are the obstacles to this?

• (1615)

Mr. Cliff Mackay: I'm not sure, sir, that I would say there are specific obstacles. I think what has happened over time is that the country has grown topsy-turvy. We all know about urban sprawl and all that sort of thing. There's been any number of other issues that have occupied peoples' minds. This thing has just grown up over the years.

In the old days, it wasn't a big issue if a farmer wanted to put a crossing across. Trains operated at very low speeds. We had nowhere near the frequencies we have today. Today there are over 1,200 trains a day moving in Canada. We've now got an issue because of the densities and the speeds that didn't exist in the past.

Our friends south of the border, to their credit, have run a much more aggressive program than we have run here in the last 10 years, and it has made a difference in the numbers.

Hon. John McCallum: Can you establish a definite relationship, suggesting that if we had so many fewer railway crossings, we'd have so many fewer accidents?

Mr. Cliff Mackay: Yes, there is a correlation. The experience in the U.S. is very clear. As they have significantly reduced the number of crossings, or improved the existing crossings in terms of safety, they have seen a reduction in fatalities and injuries at crossings.

Hon. John McCallum: One last question. As an economist, the idea that you don't like the notion of highest safety level makes sense to me. How does one measure that? What does that mean? Interpreted literally, the highest safety would occur if the trains never moved.

Mr. Cliff Mackay: Exactly.

Hon. John McCallum: I'm not quite sure how that would be interpreted. Also, you point out that it's inconsistent with the Canada Transportation Act. So how do you define "highest safety level"?

Mr. Cliff Mackay: The way we define it today—and I'll ask my colleagues to speak to this—is through an SMS system. That's why we use “practicable” as opposed to “highest”. It is the highest practicable level of safety. We define it through a series of risk assessments and practices, and we measure against that performance over time. The objective of the exercise is to constantly drive down the incidence with regard to safety. So it's defined relatively, sir, not absolutely.

I've asked my colleagues to speak to it.

Mr. Glen Wilson: Mr. McCallum, the point you made hit the nail right on the head. The interpretation of it is left wide open. Certainly some would argue, and it's an extreme example, that the highest level of safety is attained by not moving a train.

What we're really looking for is, first of all, consistency. It's in the Canada Transportation Act, which Mr. Mackay alluded to. The standard for highest practicable level of safety is understood, because it's in another piece of legislation. It incorporates the inherent nature of a railway operation, which is that you will be moving trains. Within that, the safety management system requires us to manage the associated risks.

That's the reason, really, for our position. I certainly appreciate your comments.

The Chair: Before I recognize Monsieur Gaudet, I have a question about the railway crossings. I have producers who have a railway that splits their property in half. If you close that crossing, they may have to travel 10, 12, or 15 miles to access one. Is that part of the problem?

Mr. Cliff Mackay: It could be part of the problem, Mr. Chair. But in that particular case, that's probably not a crossing that would be up for closing. It's too onerous.

On the other hand, we have lots of situations where you have five or ten private crossings, in a very short length of track, that frankly are hardly ever used. You could easily accommodate local traffic through some other means.

Mr. John Marginson: In fact, in some of the situations we've seen, the same dwelling has three or four crossings—the same dwelling. They are very willing to close a couple or three of those crossings, as long as they have easy access to and from the dwelling.

The Chair: Yes, that's the big challenge.

We'll go to Monsieur Gaudet.

• (1620)

[Translation]

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

I would like to discuss private railway crossings. I have reached a certain age, and I won't dwell on that. There used to be a lot of animals along railway lines. Today, you don't see any animals outside. Accidents at private railway crossings must be quite rare.

[English]

Mr. Cliff Mackay: I'll ask my colleagues to comment, but no, we do get accidents on private crossings as well as on public crossings. We get them in both places.

Mr. Glen Wilson: That's absolutely correct, as Mr. Mackay said. You have to keep in mind as well that a private crossing can sometimes be a very high-traffic crossing into a retail outlet or some other location that draws a great many people.

Mr. Paul Miller: Sir, we agree with that as well. The key, as was mentioned a few moments ago, is to do a full assessment of these crossings: risk, benefit to the public, whether there is other easy access for the public or the landowner so that they can get across.

One of the reasons for the success of the program in the U.S. is that it takes a very holistic view of crossings over a particular stretch of territory. Can we close three, upgrade two to a higher level of safety, and then improve safety and maintain convenience to the public? It's very much an individual case.

But there are accidents at both types of crossings.

Mr. John Marginson: Absolutely. Typically, at a private crossing, the driveway or the access road to the dwelling is not maintained as it would be for a public crossing. Snow removal may not be adequate either. So there is a whole other set of risks associated with private crossings. That's why it is important that we do a risk assessment of each and every crossing to see which ones are most deserving of our attention, and funding, of course.

[Translation]

Mr. Roger Gaudet: There were 1,038 accidents and 68 derailments. How much does each company invest annually in repairing and maintaining railway lines? I am putting this question to the three companies here.

[English]

Mr. Glen Wilson: Our industry, Monsieur Gaudet, is one of the most capital-intensive industries. A much higher percentage of revenues earned are reinvested into maintaining the infrastructure because it's a private infrastructure. We at Canadian Pacific have an almost \$1 billion capital program this year in 2011. As well, there's another operating and maintenance budget in the hundreds of millions of dollars that goes into maintaining the infrastructure.

Mr. Paul Miller: For CN, Monsieur Gaudet, our capital budget in 2010 was about \$1.6 billion. It'll be about \$1.7 billion in 2011. Roughly \$1.2 billion of that will be on basic plant and equipment renewal, track infrastructure renewal.

Mr. John Marginson: In the case of VIA, as I mentioned earlier, we have a relatively small amount of track, roughly 160 miles or so. The operating funds that we spend certainly pale in comparison to the freight railroads. I can say, though, that with the assistance of the economic action plan funding for this purpose, over the last couple of years and into the next couple of years we'll be spending about \$0.5 billion just on our track, as well as on freight track.

[*Translation*]

Mr. Roger Gaudet: That seems to be a lot of money, \$1.5 billion. What are these improvements? If there were 68 derailments, this means that something was not right somewhere. Do you have inspectors who verify your lines? Do they check the wheels? If you take asphalt highways as an example, we know that after 35 years they have to be resurfaced. The same thing must be true at CN. I never saw a railway line closed because of construction or repairs. In my riding, however, there is no long railway line, so I cannot really talk about this very much. However, I come to Ontario every week and I go over railway crossings. I always take look to see whether the railways are maintained, as often there are not many trains that use them anymore. When the line is rusty that means there is not much traffic on that railway line.

• (1625)

[*English*]

Mr. Cliff Mackay: I'll ask my colleagues to comment, but I should make one observation to you. There are over 45,000 kilometres of rail in Canada. That makes the rail network one-third bigger than the national highway system. So this is a huge network we're talking about here.

But I'll ask my colleagues to speak on the maintenance side, the inspection.

Mr. Glen Wilson: When you speak of inspection, I'll highlight a couple of areas that the technology is really taking us forward on. First of all, for context, Canadian railways have a very enviable safety record in terms of train accident rates, internationally and when compared to the U.S. class 1 industry.

We do 55,000 miles a year of ultrasonic rail testing. These are advanced machines that roll along the track and can detect flaws inside the rail that can't be detected any longer with visual inspection. It used to be that the operator had to get out and check defects when they found them. We're now trying to move that to a broader basis of non-stop testing so that we can go further, do more inspection using technology. And we think that's really the key to improving the infrastructure further, to turn maintenance forces today from finders into fixers. In other words, they're not searching for the defect; they're focusing their efforts on repairing defects that are located by these advanced technologies that are very expensive to operate but which we're investing in heavily as part of our programs, and which are really paying significant dividends going forward.

Mr. Paul Miller: From the CN side, Monsieur Gaudet, we've tripled our ultrasonic rail detection since about 2003. In 2010 it was just over 200,000 miles. It's far in excess of the minimum regulatory requirement. Track geometry is a similar story. We've added a second track geometry test vehicle at considerable capital expense.

In a lot of ways, there is no better replacement than the human eyeball and the human ear, and to watch a train go by, watch a train go over the plants; we're very focused on that.

Of course, as well, we have our friends at Transport Canada who are also out there inspecting our track and seeing if they feel that we're not doing everything we should be. We take anything they say, of course, very seriously.

So there is considerable inspection of the track.

The Chair: Thank you.

I'm now going to Mr. Jean.

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

Thank you, witnesses, for attending today.

It's good to see you again, Mr. Mackay. It's always good to see the rail here in front of us. I know that sometimes we have not seen eye to eye in relation to some of the scenarios, often in relation to rail safety. Of course, we have taken some serious steps with the government, and I think the rail has as well.

I want to start with the committee that was set up in relation to the review itself. I've looked at their CVs, and these are three individuals who, to my mind, are very talented indeed. We have a past minister of the Alberta government, as well as Mr. Edison, who had 40 years of experience with CN, and Bill LeGrow—

Mr. Paul Miller: This is with regard to the service review. These are the....

Sorry, sir. I shouldn't interrupt.

Mr. Brian Jean: I don't have a lot of time; I want to share with Mr. Trost anyway.

The people who are involved with the review, to my mind, are very talented indeed and bring extensive experience with them.

I'm curious, particularly in relation to some of the evidence you gave today about a non-punitive reporting system. You know, we dealt with reporting systems for SMS in the aviation industry some time ago. If there is a non-punitive SMS reporting system to the company, why would there be need for a reporting system to, for instance, TSB, which, as I understand it, has a system in place called *Securitas*, or one to Transport Canada? I'd just like to have your views on that.

We heard from the Teamsters the other day. They were very clear that they wanted a direct line to Transport Canada. What do you see as the issue here, and what would be your recommendations?

Mr. Cliff Mackay: Let me start with the principle. The principle we operate on is that at the end of the day, yes, the government should very much oversee us on safety. At the end of the day, we are responsible for the safe operation of our industry, period.

Let me just put that principle on the table, and then I'll ask Paul and Glen and John to make a comment specifically on this.

• (1630)

Mr. Paul Miller: Mr. Jean, even today there are multiple ways into the system for an employee to report. As I mentioned, they can report directly to Transport Canada now, and they do, because Transport Canada in turn speaks with us, whether that's an official or a semi-unofficial method. It certainly is out there, and we have absolutely no issue with it.

There should be a non-punitive confidential reporting mechanism within the SMS. We have that now. It's not well managed at our place. I'm certainly not speaking for the other two companies. We know we have work to do in that regard.

Again, we'd like to get to that place in the development of our safety culture, that those concerns—

Mr. Brian Jean: Sorry. I don't have a lot of time.

I understand that it might not be working perfectly, but we want it to work perfectly. I mean no disrespect, but when you said that safe operation of the industry is your responsibility, the government also has a responsibility. Obviously, through our regulatory powers, we need to make sure that Canadians are safe at crossings or wherever they may be.

I would have to argue with you. We have a responsibility too to make sure that you're keeping people safe everywhere. With respect, what would you see as the best answer at this stage? Would you suggest a non-punitive reporting system directly to Transport Canada or to the TSB? What would your recommendation be, in very short words?

Mr. Mackay.

Mr. Cliff Mackay: Given those choices, clearly it has to be within the context of the SMS system within the individual corporation, but at the end of the day, they are the employees of the corporation, and that corporation has an obligation to deal with safety within its own operations.

Mr. Brian Jean: So you would like to not see a new reporting system, but you're okay with the current reporting system through Securitas with the TSB?

Mr. Cliff Mackay: Yes. I mean—

Mr. Brian Jean: From what I understand, your employees are going directly to Transport Canada now.

Mr. Cliff Mackay: We're not going to argue. Employees can talk to anybody they want to talk to.

But if you gave us those choices, our choice would always be to put the non-punitive reporting system in the context of the SMS.

Mr. Brian Jean: My final question is in relation to the land governance issue. I know this is a big issue in my riding. In northern Alberta we have a lot of rail crossings. We have a lot of communities that are built up around the rail. I know that's something we can't avoid when the economy in those communities is so tightly linked to the railroads.

Really, you're asking us—to my mind—to interfere in provincial jurisdiction, municipal government jurisdiction, and the alarm bells go off whenever that happens, because obviously we have a balance of power in this country. That's the first thing I see. I do see a difficulty with that. As well, though, don't you think it would be better for you as the rail industry to go to each province and try to arrange some sort of agreement with them? That's my first question.

Second, do you not see some difficulty in relation to this, if there is an obligation on the municipality to advise you within 300 metres of a rail line? My goodness gracious, in Lac La Biche, for instance, or Slave Lake, every single thing that goes on in the city or in the community has to go to you. Every single building in Lac La Biche is within 300 metres, I would say, of a rail line, for instance. So every time anybody wants to build anything, they have to send you notice. That just seems so onerous.

Are you prepared, every time you do something on your tracks that may affect someone around you—such as a business around you—to give them notice of that?

Mr. Cliff Mackay: We have to now. It's a requirement.

Mr. Brian Jean: Three hundred metres?

Mr. Cliff Mackay: I can't—

Mr. Brian Jean: I don't think it's that. I think it's just within—

Mr. Cliff Mackay: I don't have the regulation in front of me, but we are now required to consult with the local municipality and others for anything we do that will in any way impact...

Mr. Brian Jean: I agree.

My understanding of the regulation is that if it's going to directly affect that person.... You're asking for a blanket coverage of 300 metres within the rail line. I just find it absolutely onerous for municipalities and anybody involved in it, and I'd like to hear your input.

Mr. Cliff Mackay: Let me speak to the two things.

Number one, with regard to the jurisdictional issue—and I guess I'm a bit mystified because it already exists in the Aeronautics Act, and has existed for 40 or 50 years, and has not resulted, the last time I checked, in any major federal-provincial issues. This is a matter, in our view, of public safety. We think there are some obligations on the part of the federal government in that context. We don't think this would be in any way an onerous intrusion into provincial jurisdiction.

With regard to the 300 metres, we recommended 300 metres because in our work on proximity issues—noise, vibration, a whole range of other issues—that seems to be the standard that has emerged through practice and through other studies that have been done. If you're outside that kind of range, then it's highly unlikely that you're going to have anything impactful either way. If you're in that range, it's possible.

I should also say that just because a municipality sends a piece of paper saying we're giving notice, it doesn't necessarily mean that this triggers a big process. Right now, there are hundreds and hundreds of notices given every week to airports across the country, and most of them are of little or no consequence. But the few that are of consequence are important.

● (1635)

The Chair: Thank you.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal: Thank you, Chair, and thank you again, Mr. Mackay. I apologize if I mispronounced your name the first time around.

Mr. Cliff Mackay: That's not a problem.

Mr. Sukh Dhaliwal: I'll continue with the 300-metre restriction that you're trying to impose. I come from an engineering, land surveying, and planning perspective. The city I come from, Surrey Delta, used to get notice within half a kilometre of a development, but to me it seemed like us putting fines and imposing costs on the local government. It doesn't make sense to me. I think those issues can be resolved between the railway companies and those municipalities or the provincial government, whatever works for you. To me, 300 metres seems to be very...it doesn't make sense to me. The thing is that within 300 metres there would be hardly any development, neither residential nor commercial. So I don't see that.

If I see a railway corridor, it's all about development. The development has to go around that corridor, so that's what I have some issues with.

Mr. Cliff Mackay: Let me be clear. We are not proposing at all that there would be no development in that 300 metres. We would be proposing that there would be notification if you wanted a development.

Mr. Sukh Dhaliwal: So you don't get those kinds of notices now?

Mr. Cliff Mackay: We do not get them. The only province in Canada that requires their municipalities to give us notice on developments is Ontario. We have had condos built within 75 metres of major railway tracks in B.C. Within six months, there's been a huge deluge of complaints and other problems, and safety issues as a result of those developments.

Mr. Sukh Dhaliwal: Basically, all you're looking for is a notification—

Mr. Cliff Mackay: We're looking for notification.

Mr. Sukh Dhaliwal: On another note, and I'm going to go back to Mr. McCallum's question, because you diverted those to Mr. Miller and Mr. Wilson. I'm going to give you only one option. He met with the GO Train people this morning, and I have a similar authority, TransLink, in my part of the woods.

We all know that TransLink has an excellent record, and excellent accountability to the public as well, because it's another level of government. If I give you one option and ask you the question, would you support their recommendation for them to be exempted from Bill C-33? Would you support that?

Mr. Cliff Mackay: We already said to them we would, but you need to be clear on this. We can live under either regime.

Mr. Sukh Dhaliwal: But, again, if you had to pick one or the other, would you go with TransLink?

Mr. Cliff Mackay: We would go with their advice because it's their operation and they know best. The only logical reason we can see for the government proposing what they proposed is that they're worried about their ability to see through the class 1s and to take enforcement action if they see a public safety issue. The way the government is proposing to do it would make it easier for them. But from our perspective, it's their operation. They know what they need, and if they feel that this is onerous we are certainly not going to disagree with them.

Mr. Sukh Dhaliwal: With respect to disclosing information about safety, there are only two national railways, and I don't think there is much competition. You run different tracks and you attract a

different type of business. When I was talking to the Port Authority, that's what my feelings were.

You say that information should not be disclosed, because it puts you in a competitive situation. I don't believe it. In fact, it gives you credibility. It makes you accountable to the public, accountable to your workforce. It's not going to be possible for the employees to report. If you put on all those restrictions, how would they be able to report either to Transport Canada or to us here at committee to hear those grievances?

● (1640)

Mr. Cliff Mackay: I think you're speaking about some of the privileged information issues. I'm going to let Glen and Paul speak to them because they're specific to their companies.

Mr. Sukh Dhaliwal: Thank you, Mr. Mackay.

Mr. Glen Wilson: Mr. Dhaliwal, we have employees involved in risk assessments as well. We ask them to fully assess risk and to do it in a robust fashion when they're looking at a change. We do it in a way that generates a substantial list of what risks might exist. Any lawyer who looks at it will tell us that this is a dangerous document to allow to be produced.

You can do risk assessments in a much skinnier way, if you wish. We want to encourage our management and our employees to consider risk fully, to consider what mitigations they need to take to address risk. In order to do that, we believe it shouldn't be a document that is available to the public, because it then poses a risk to our company and can be misinterpreted.

Mr. Sukh Dhaliwal: So it's not from a competitive perspective that you don't want to disclose, but it has to do with certain other issues.

Mr. Glen Wilson: No, it's not a competitive issue at all.

Mr. Paul Miller: Mr. Dhaliwal, please be assured that CN and CP are fierce commercial competitors. We cooperate with my colleague Glen Wilson and his people on safety and operational matters, but we are fierce commercial competitors.

I share Mr. Wilson's perspective on this. It's not that we don't want to share the audits and the risk assessments with our employees, because they're involved in them. We share them with Transport Canada and with the TSB. But when it gets beyond that group that needs to know, we get into a lot of questions, a lot of interpretation. We're concerned about spinning our wheels.

The other thing we're concerned about is that both CN and CP operate in the U.S., where our whole structure is quite different. Please be assured that the way we document them here in Canada is much more robust than the way we do it in the U.S., because of litigation concerns.

The Chair: Thank you. I have to end it there.

Mr. Trost.

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

In the 2008 report, “Stronger Ties: A Shared Commitment to Railway Safety”, some independent experts gave their personal ratings of the safety cultures of VIA, CP, and CN. They gave VIA a 4 on a scale of 5; they gave CP a 2, and they gave CN a 1, not the most encouraging results for two of the three companies. I hope since then—and I’m sure you’ll say you have—you’ve taken to heart the recommendations to change the culture of safety.

In a broad sense, how do you think this legislation will help your companies to change the culture? Even with all the rules in the world, if people don’t internalize the principles that safety is important and must be made a priority, nothing will change.

I’d like a response, particularly from CN and CP, but also from VIA. How do you think this will help to change the culture, and how have you been changing the culture since this report was submitted?

Mr. Cliff Mackay: If I could just make one overall comment...?

Mr. Brad Trost: Sure.

Mr. Cliff Mackay: It’s already happening. All of the work that has gone in through the working groups, and all of the other things that have happened as a result of these reports, have already changed a lot of culture. There’s a lot more dialogue that goes on among unions, stakeholders, railways, and a whole bunch of other people.

There have been literally hundreds of people involved in these processes in the last three to four years, so it has changed things already.

Mr. Paul Miller: From CN’s perspective, sir, interestingly, we just did a survey on safety culture with our employees. This was done in November. For our unionized employees, we got responses back from about 2,200, so that’s over 10% of the population, and that gave us a 3.5 out of 5. So it’s not a perfect score by any stretch of the imagination, and it’s one that showed us a lot of room for opportunity, which we intend to continue to pursue.

On the structure of the Railway Safety Act review, as has been mentioned here, this act very much supports the work that was done in the Railway Safety Act review. Probably some of the most important working committees were on safety management and safety culture development. We participated. Everyone represented here participated, Transport Canada did, and the unions did. We’re very focused on a number of those initiatives to continue to pursue and improve that.

• (1645)

Mr. John Marginson: I guess I could begin by saying I’m happy that we didn’t score five out of five, because I don’t think you can ever say that you’re there. As I mentioned earlier, with our safety management system, we began our work in that area in 1998 and it’s still in progress. It’s still in evolution and it’s still being improved.

But I really believe that when you’re talking about a cultural thing, it’s really living the safety consciousness every day. Almost every day I take a look at local health and safety committee minutes and send a comment back to the co-chairs. I know that our president does the same thing.

It’s just living through those kinds of situations and those kinds of examples every day. That’s where you bring the culture up in an organization.

Mr. Glen Wilson: Much as my colleagues have said, Mr. Trost, the culture of safety did not start with a review of the Railway Safety Act; it continued throughout it, and it will continue past this legislation.

We’ve surveyed employees regularly over the course of time and over the course of the last decade. Every time we survey our employees about whether they feel safety is a priority in their workplace, we see an improvement in the response. In the most recent survey, it was up to 80% of employees who feel that CP is providing a safe workplace to them.

When you look at the legislation, I think you have to look at the whole RSA review process. It generated 56 recommendations, half of which were furthered by joint working groups involving labour unions, the regulator, and the industry, so that’s part of the success of that process.

Mr. Brad Trost: Looking at your resumé here is very interesting. Well, let me back up a little bit. In this legislation, there’s a new position whereby every company is going to have a chief safety officer, to the point of having criminal liability being attached to it. Now, in looking at some of the resumé here, some of you gentlemen could possibly be appointed to those positions in your companies.

What I’m wondering is how this change in the legislation will change the way your companies deal with safety. Also, assuming that you would be the people promoted—or punished, as I’m not sure what it would be with that position—how would it change the way you would approach safety management inside your various corporations?

I’d appreciate your responses.

Mr. Paul Miller: I am the chief safety officer for our company now, and I am the person responsible for submitting our SMS each year to Transport Canada, amongst other responsibilities.

Again, sir, I would just focus on the fact that the work the panel did is I think very well reflected in the legislation as it has been proposed here. Again, we have some suggestions, but the work is there, so we—

Mr. Brad Trost: So would your job actually change?

Mr. Paul Miller: Would it change? Well, it always does change; it continues to change.

The collaboration with employees and their representatives, the outreach to employees, and the outreach to the regulator are I think just further enhanced in the legislation the way it’s written.

The Chair: If there’s no one else...?

A voice: Go ahead, John.

Mr. John Marginson: It’s quite possible that if this were to go through, I would be the individual. I don’t have an issue with that; I’m not afraid of that. It’s really what I do today. It’s how I live my life at VIA Rail today.

The only other individual who I think might be more interested in taking this would be our president, because that’s how very strongly he feels about safety at VIA Rail.

So I'm not afraid if it's me, and I would certainly support my boss if he chose to take that on himself.

Mr. Glen Wilson: I'll just add this. I was going to say much the same thing as Mr. Marginson. My president and CEO of Canadian Pacific would also take issue if I were to call myself the chief safety officer of CP. He believes that's him.

Does the bill change my set of responsibilities? I don't think it really does. As Mr. Miller said, they're constantly evolving. Safety and the involvement of employees in our process is a priority to our company, but whether I'm the individual under that act or not, I guess we'll see when the legislation comes into effect.

I, and I know our president and CEO, take it personally very seriously and to heart that these decisions are made in everyone's safe interest.

•(1650)

The Chair: Thank you.

We have a few minutes left. I'm going to go for one more round. You can have just one question. If you can, keep it brief, and we'll try to get everybody in.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal: Last week we were here listening to the union representatives. One issue that came up was a critique of schedule management. That is quite a concern to me, and I'm sure it's a concern to you as well because you treat your employees to the best of your abilities.

When it comes to scheduling, should it be left to labour and management, or should we regulate it to prevent fatigue?

Mr. Cliff Mackay: You do regulate it now, sir. There are regulations with regard to fatigue management. But again, I'll let my colleague speak to the detail.

Mr. Glen Wilson: I'll just add that what Mr. Mackay is referring to is the work-rest rules. They do provide a framework for regulating work scheduling. What you can really only expect to manage is the schedule and the provision of time off. You can't regulate fatigue per se because you can't regulate what people do with their spare time. You can't regulate nutrition habits and all the other things that go into a fatigue management plan.

When we talk about fatigue management, we apply the most advanced science on the subject that there is, really, in the world. It comes out of Australia, and it looks at analyzing work schedules and identifying risk areas as to whether or not the schedule is providing adequate opportunity for rest. But it's very much a shared obligation on industry to provide work schedules, but also on employees who participate in it to take rests when they have those opportunities.

Mr. Paul Miller: From CN's perspective, Mr. Dhaliwal, a number of our employees are subject to some type of scheduling now—not nearly as many as we'd like. I do believe it's something that properly rests between the employees and their representatives and the company.

I'm pleased to report that in the most recent collective agreement we concluded with our conductors, scheduling pilots are part of that

agreement. They're a commitment that we've got and that we're working towards now.

The Chair: Thank you.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: Thank you, Mr. Chair.

Did you read the document submitted to us by the unions last Thursday? Did you get a copy?

[*English*]

Mr. Cliff Mackay: Yes.

[*Translation*]

Mr. Michel Guimond: You saw that they suggested four amendments. What do you think of them?

[*English*]

Mr. Cliff Mackay: I don't have them in front of me.

[*Translation*]

Mr. Michel Guimond: You answered regarding the one that dealt in part with fatigue. I can understand that this isn't to your liking.

How should we feel about the amendments submitted by the unions?

[*English*]

Mr. Cliff Mackay: I'll try to do this from memory because I don't have the document in front of me. If my memory serves me correctly, there was one recommendation with regard to a formal reporting system put into the legislation to the government. I think we've spoken about that a number of times around the table.

Our strong view is that it's not necessary. If our employees want to speak to people in the government, they can do so now. We don't see any requirement for that in the legislation, and we would prefer, as we said earlier, that reporting systems be in the context of the SMS system, not outside the SMS system.

So we're not comfortable with that one. I think we've spoken to fatigue. I'm just trying to remember the other two they raised. Can you remind me of them?

The Chair: I have to interrupt there anyway. We have to go to Mr. Bevington.

Mr. Dennis Bevington: Well, I'd be pleased to finish that off, because that's what I was going to raise as well. We've had two sets of witnesses now, and we've got quite a number of amendments to this bill that have been proposed. One of them is to say that rail traffic control of Canadian operations must be located in Canada. Do you have any problems with that?

•(1655)

Mr. Cliff Mackay: No, because that's how it is. Ask my colleagues to speak to it.

Mr. Paul Miller: Mr. Bevington, speaking for CN, we have three rail traffic control centres in Canada—Montreal, Toronto, and Edmonton. We have no plans at this point. It is not under any discussion to move.

Mr. Glen Wilson: CP has the same position. We have rail traffic control centres in Calgary and Montreal and no intention or plans to relocate them anywhere.

The Chair: You have 20 seconds, if you want to use it.

Mr. Dennis Bevington: Well, I haven't had a chance to get into the subject of the people moving onto your line. You talked about the crossings, of course, but the other thing is people accessing your property inappropriately, and the death toll there is very high. Is there anything in this bill that would help that?

Mr. Cliff Mackay: Not in a very specific sense, but again, anything we can do to improve public awareness, these sorts of things, is a step in the right direction, particularly with younger people. You probably heard about that unbelievable thing out in Saskatoon last week, where this guy who was walking with earphones on got hit by a train and got up and walked away. Well, my God. That's the kind of thing we see happening with young people in particular.

The Chair: Thank you.

Mr. Jean, do you have a final comment?

Mr. Brian Jean: Thank you. Yes, I want to get back to my first question and comment from my previous series of questions, in particular in relation to the rail freight service review that's coming down. And I know you guys are all excited about it. It's going to be pretty exciting.

I mentioned earlier that we had three stellar Canadians on that particular review, making recommendations. What I'm interested in is that we heard earlier that there might be competing interests between service and safety. At least there were some questions that went that way, and I just want to be assured by you gentlemen that there isn't a competing interest between them. You can both have good service—and congratulations, I think you've actually picked up your service in relation to wheat farmers across the country. Congratulations. It was something like a 90% on-time delivery of cars. I was very impressed with it when I saw it. I remember that.

But with this new service review that's obviously coming forward, do you see any competing interests with its providing better service and at the same time providing better safety? They don't have to be competing interests. They actually can go together and work at the same time, and I'd like to hear a few comments on that.

Mr. Paul Miller: Speaking for CN, we absolutely agree with that view. In fact, in addition to a moral, legal, and ethical responsibility to operate safely at all times, it's only good business, and we run a very asset-lean model. In order to provide the kind of service we have to provide to grow our business successfully and sustainably, we have to operate safely. So there is no competing interest between safety and service.

Mr. Glen Wilson: I echo that as well, Mr. Jean. The vision statement that our company has had for many years is “safest, most fluid”, and we believe very firmly that they move together in lockstep. Fewer derailments equals less interruption of service.

Mr. Cliff Mackay: And better service.

I can say without any equivocation that the short lines would subscribe to that. Good safety makes good business.

Mr. Brian Jean: Great. Thank you.

The Chair: Thank you.

I thank our witnesses for being here today. I do know it was on short notice, so I appreciate your making the time, and we look forward to the final results. Thank you again.

We're going to take a short, two-minute recess and then come back and deal with motions. Mr. Bevington has a motion, and then Mr. McCallum has two motions. So we're going to a two-minute recess.

• (1655)

(Pause)

• (1700)

The Chair: Thank you, and welcome back, everyone.

Before we move to Mr. Bevington's motion, I just want to let you know that we have circulated a calendar to show you the upcoming events, and Bonnie has advised me that she will be contacting your office in regard to the Bombardier visit. We'll ask that you put forward dates, and we're going to put forward dates back to you that you've agreed to. We just need a commitment so that we can move forward with that.

Right now, we have Mr. Bevington with a motion, and I'll ask him to present.

Mr. Dennis Bevington: In this motion I'm calling on the government to provide the committee with copies in both official languages of Canada Post's strategic review document, “Universal Service Obligation and Other Public Policy Analysis - Study 1”.

This study was started up in July 2008 and speaks to the universal service obligations of Canada Post. I think it's a very important study for our consideration, and that information would be valuable for members of the committee to have.

The Chair: Are there any comments?

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: I am entirely in favour of that proposal. I would like to take this opportunity to congratulate my colleague from Western Arctic for raising this point.

• (1705)

[*English*]

The Chair: Mr. Trost.

Mr. Brad Trost: Thank you, Mr. Chair.

I've just got a few questions for my colleague, Mr. Bevington, and then, depending on his response, I may have some more comments.

I'm a little curious about whether he's planning to expand this to a broader study or what particularly he is looking for in this report. Are there specific elements? Does he plan to expand on it with further witnesses or testimony? We are getting quite a few studies through here. I'm trying to ascertain where he wants to go on this. If Mr. Bevington could give a bit more detail, it would be appreciated.

Mr. Dennis Bevington: The study really looks at what Canada Post's obligations are as a public corporation, so what it does, the universal service objectives.... We'll get a look at what the thinking is about postal service in this country, whether there's any sense about where you draw the line in terms of the opening or closing of post offices in communities and what actually does our public corporation think of its role as the Canadian postal service.

That I think is what the objective is here. Once you see that, then certainly it may bring up questions to people about how they view that role and whether they think that's correct or whether they think that's not correct. What it does is give us the information to see where Canada Post is going.

The Chair: One more question, and then I'll go to Mr. Byrne.

Mr. Brad Trost: Just following up on that, what Mr. Bevington is looking for is a sense of where Canada Post sees its sense of mission and purpose. From there, we would go on to check the broader community's view on what Canada Post has said. Is that a pretty accurate summary?

Mr. Dennis Bevington: That could be the direction that comes out of this. I wouldn't want to prejudge it, but I would want to see the report and then be able to make some kind of judgment.

The Chair: Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you, Mr. Chair.

The motion does not call on any analysis or a study reference by the committee. It requests that the committee, I assume, report through you, Mr. Chair, to the minister responsible for the Canada Post Corporation to simply supply documents to the committee. It seems like a pretty straightforward and reasonable request. I think we would be supporting that request.

The Chair: Mr. Jean.

Mr. Brian Jean: Yes, Mr. Chair.

First of all, I just want to remind everybody that this is the Prime Minister who put a moratorium on closing the rural post offices. Secondly, I think he's the first Prime Minister in the history of the country who's given a directive to Canada Post in relation to rural mail. I do want to remind members of that.

I did some research on this for Mr. Bevington just before committee, and I understand that at this stage the document is only in English. So we will certainly need to have it translated. I understand as well that there may be some ATIP considerations in relation to the contents of the report itself that will have to be removed.

Other than that, I don't see a problem with it. I think it's a good suggestion, and it will certainly help us move forward, especially when issues come up with Canada Post from time to time, which I think they will. This government has been very clear on its position with Canada Post in standing up for rural mail delivery, and I think that will not change.

I certainly think it is a good idea from Mr. Bevington, and I'm glad to hear about it. If he wants to work on the scope of this particular issue and where the study goes from here, I'm happy to work on that one on one behind the scenes as well.

The Chair: There seems to be consensus around the table. If there are no further comments, I'll ask for a vote on that.

Mr. Jean.

Mr. Brian Jean: I'm wondering if after the service review has been done, or after we've seen the service review, we could then be in a position to hold an extra meeting or two to have Canada Post come in and answer questions in relation to that. I think it might be helpful.

The Chair: Mr. Trost, do you have another comment?

Mr. Brad Trost: Just a question following up on what Mr. Jean says.

Would we be getting the release of the report in just the English version, or would be waiting until translation is done for the French version?

The Chair: We would wait until the translation is done.

Mr. Brad Trost: And then with the ATIP things, I assume that would automatically be excluded from the report.

• (1710)

The Chair: It's my opinion that that would all have to be completed before it would be presented to committee. I think what we will do as a committee, depending on how the vote goes, is encourage them to do it sooner rather than later.

Mr. Brad Trost: Forthwith.

The Chair: Forthwith.

Mr. McCallum.

Hon. John McCallum: I was just wondering what ATIP things he was referring to.

Mr. Brian Jean: I was told by the department there might be some ATIP issues within it. I was also told that it might take a few weeks to translate it. I understand that might be the issue.

Hon. John McCallum: I don't understand the point about ATIP.

Mr. Brian Jean: I don't either, to be honest, Mr. McCallum. I can find out more information from the department. It's always good to have a birdie on your shoulder. Just give me one second and I'll read it.

Just due to the access to information and privacy acts, some information might be restricted.

I'm not sure, Mr. McCallum. I certainly would be happy to find out more information from the department in relation to this. My understanding as well is that Canada Post has not got a copy of this yet, so there are other considerations. But I think it's a good thing for members to see and a good thing for the committee to look at and study. I certainly do.

Any other questions, Mr. McCallum?

Hon. John McCallum: That's it. Thank you.

Mr. Brian Jean: And I will undertake to find out exactly why they brought up the ATIP issue, because that's the first time I've seen that kind of question in something like this, especially a motion relating to a crown corporation.

The Chair: The motion has been put by Mr. Bevington that the government provide the committee with copies in both official languages of Canada Post's strategic review document "Universal Service Obligation and Other Public Policy Analysis: Study 1".

(Motion agreed to)

The Chair: We have two motions from Mr. McCallum, and I'm going to leave it to you to decide....

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: In light of this morning's events, I am asking for my colleagues' unanimous consent.

I said that I wanted to consult the "blues" of the committee's hearing to see the comments made by Mr. Dhaliwal. Afterwards I will decide whether I will raise a question of privilege in due course. It will not be a point of order. I will raise a question of privilege here in committee or at the House regarding Mr. Dhaliwal.

In order to have a clear mind to speak to the two motions submitted by Mr. McCallum, I am asking colleagues to defer studying these motions. If you would prefer to have the vote immediately, I am telling you right now that regardless of the merit of the motions, we are going to vote against them, in light of those comments.

The climate of trust and respect no longer exists in connection with Mr. Dhaliwal.

[*English*]

The Chair: Mr. McCallum, do you have any comment on that?

Hon. John McCallum: I don't think these are particularly urgent motions, so I would....

Mr. Brian Jean: Mr. Chair, I object. I'm totally prepared to go ahead with these motions right now and we're ready to call the vote.

Hon. John McCallum: I would not mind delaying them.

The Chair: Mr. Bevington, are you okay?

Mr. Dennis Bevington: Yes.

The Chair: I would suggest, then, that we will defer this. I will put it at the end of Thursday's meeting

I would ask, Mr. Guimond, if you do choose to proceed, if you would just advise me, through the clerk, so we can have the necessary paperwork.

With that, thank you to the committee.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: I cannot yet tell you what will happen Thursday. I have to go over the precedents.

You know that I am a lawyer by profession. I sat for 10 years on the Standing Committee on Procedure and House Affairs. I must consult the House counsel. I am not guaranteeing that I will raise my question of privilege Thursday in committee or in the House. I will do so when I feel the time is right.

[*English*]

The Chair: I will just advise committee members that I'll put it on at the end of the agenda, and we'll have this same discussion, I suspect, at that time.

Mr. Byrne.

Hon. Gerry Byrne: Just for your benefit and that of committee members, Mr. Chair, I do intend in the future to table a motion regarding a potential study or a request for documents regarding the operations of Marine Atlantic Inc., which is a federal crown corporation involved in the transportation of passengers and vehicles to and from the province of Newfoundland and Labrador that operates under a constitutional obligation to do so.

• (1715)

The Chair: Thank you for that heads-up.

Mr. Jean.

Mr. Brian Jean: I just wanted to let Mr. Byrne know that if he does want to do it before a motion can be tabled, I am more than happy to provide him with any information I can through the department, because, quite frankly, the amount of money invested by this government in Marine Atlantic, as you know, has been unbelievable over the last three or four years. So I think most of the information would be forthcoming. If you just wrote a letter to the minister, I think he'd be more than happy to do so. But it's up to you, Mr. Byrne.

The Chair: Yes, Mr. Byrne.

Hon. Gerry Byrne: Mr. Chair, I really appreciate that. There are specific documents that I would indeed like to see, but I think the parliamentary secretary has indicated that they can be provided without delay. So that could be very helpful as well.

Mr. Brian Jean: I'd certainly make the request, and that would be up to the minister's office, but I think they would provide most of them. My understanding is the investments by this government are to such a magnitude that they're very proud of those investments and what's taken place in the new ships, etc., so I think they would.... But if you want to provide that to me, either in writing or in person, I'd be happy to transmit that on to the minister's office and get that to you as soon as I can.

Hon. Gerry Byrne: Great.

The Chair: Thank you.

With that, the meeting is adjourned.

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