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Chair

Mr. Merv Tweed

Standing Committee on Transport, Infrastructure and Communities

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•(0835)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good morning, everyone. Welcome to the Standing Committee on Transport, Infrastructure, and Communities' meeting number 32.

Pursuant to the order of reference of Thursday, April 5, 2012, the orders of the day are the consideration of Bill S-4, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act.

Joining us today, making almost a regular appearance before this committee, is the Minister of Transport, Infrastructure, and Communities, the Honourable Denis Lebel. Joining us from the department is Luc Bourdon, director general of rail safety.

Thank you for appearing. I think you know the routine here. We will have some presentation comments and then we'll go to questions from the committee.

Mr. Minister.

Hon. Denis Lebel (Minister of Transport, Infrastructure and Communities): Thank you very much, Mr. Chair, Mr. Bourdon, and members.

[Translation]

Thank you for the opportunity to be here to discuss these proposed amendments to the Railway Safety Act. This committee already has a high level of familiarity and engagement with these amendments and your continued support to improve the safety of our railway system is appreciated.

As you know, these proposed amendments were previously reviewed by this committee when they were presented to the House as Bill C-33 last spring. At that time, after several weeks of comprehensive discussion and analysis, all parties agreed unanimously to support the amendments, with one minor change related to safety reporting. Although that approved version of the bill died on the Order Paper when the election was called, the same amendments, with this committee's approved changes, were tabled in the Senate as Bill S-4, where they were again approved virtually unchanged and resubmitted to the House.

During second reading on March 13, we again heard many supportive comments from honourable members on the other side of the House. In brief, all parties once again expressed their strong support for the bill.

[English]

I believe the New Democratic Party member from Vancouver—Kingsway summed up the general feeling of the House when he referred to Bill S-4 as “...an excellent piece of legislation...that has gained the buy-in of industry, labour and government. ... It is a solid piece of legislation.”

The list of members who expressed their strong support for Bill S-4 goes on. Every member who spoke in the chamber agreed that this bill enhances rail safety, has the support of many stakeholders, has been widely debated and analyzed, and must be passed in a timely manner.

I must say, as the Minister of Transport, I deeply appreciate this enthusiastic support from all corners of the political spectrum. Everybody agrees on the importance of a safer rail industry for our economy and our communities. We all recognize that the industry is rapidly changing and that the Railway Safety Act needs to be updated accordingly. We all agree that the amendments, which have already been consulted on, debated, and unanimously approved by committee—not once, but twice—are the appropriate means to help ensure Canadians can reap the full benefits of a safe railway system. Better safety is clearly the objective that we all support.

•(0840)

[Translation]

The bill, as noted in the House, is a strong one. It is timely, it is thorough, and it is firmly focused on important and achievable improvements to our rail safety regime. I think much of the strength of this bill comes from the high level of stakeholder consultation that both preceded and followed its introduction to the House.

The initial Railway Safety Act review, which was launched in 2007, included input from the entire spectrum of railway interests, including the railways themselves, their shippers, their suppliers and their unions, as well as federal, provincial and municipal governments, national associations, independent researchers and the public. Essentially, all of the groups in our country were consulted.

[English]

Everybody had something to say, and we listened closely to their concerns. This bill is our comprehensive response. We identified the issues, we consulted on alternatives with the key players, and we subsequently took action with Bill C-33, and now with Bill S-4, to ensure that the safety concerns of Canadians are being properly addressed. We all seem to agree that they are. The member from Chambly—Borduas said during second reading that the NDP unabashedly supports the bill. Similarly, the member from Markham—Unionville said that “...the Liberal Party will certainly be supporting the bill”.

Speaking personally, I must say that I'm proud of this legislation. I am proud of it because it contains an effective blueprint for better safety in the rail industry. I am also proud of it because it shows how effective our parliamentary system can be when we decide to work together for the national interest. The net result is solid, seamless, and practical legislation like Bill S-4. I would like to remind you of some of the most important amendments in this bill.

First and foremost, Bill S-4 will improve railway safety in Canada by increasing the regulator's authority for stronger oversight and enforcement.

[Translation]

For one thing, these new authorities will allow the introduction of safety-based railway operating certificates for all railways. This means that every federally regulated railway in the country will have to demonstrate how they meet the safety standards set by the operating certificate before they begin operations.

This bill also provides the regulator with the authority to issue administrative monetary penalties when non-compliance with railway regulations is found. These monetary penalties have a very positive impact on safety and have already proven themselves effective in other modes of transport such as marine and aviation.

In addition, your approval of Bill S-4 will allow us to raise existing judicial penalty levels which were established 20 years ago and are now badly out of date. Raising these levels will make them equivalent to other modes and provide an important additional tool for our safety compliance and enforcement toolbox.

One other key component of these amendments is the significantly stronger focus they place on railway accountability and the need for effective railway safety management systems. With these amendments in place, railways will be required to appoint a senior executive to be responsible for safety issues. They will also be required to establish non-punitive reporting systems so that employees can raise safety concerns without fear of reprisal. In addition, railway companies will need to demonstrate how they continuously monitor and assess the level of safety of their operations.

These are critical steps for the development of an effective safety culture, and both the railway companies and the unions have expressed their strong support for these measures.

[English]

In addition to these key improvements, S-4 will also clarify the minister's authority related to national railway matters and expand

regulation-making authorities, which will enable us to implement requirements for environmental management plans and emission data collection.

In sum, the proposed amendments before you today will significantly reinforce and modernize the Railway Safety Act to reflect the needs of this generation and those to follow. Railways are the backbone of our economy. As such, they are an important part of our history and our future. It is our shared responsibility to ensure they remain safe.

As we all know from the recent tragedy in Burlington, even one accident is one too many. We cannot afford to hesitate. The time to move forward is now.

In conclusion, I would like to once again thank all parties for their ongoing support. I would also like to thank this committee again for the opportunity to be here. I deeply appreciate your high level of engagement on this bill and all transport and infrastructure issues.

We will be happy to answer any questions you may have.

Thank you, Mr. Chairman.

● (0845)

The Chair: Thank you, Mr. Minister.

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): Good morning, Mr. Minister.

Hon. Denis Lebel: Good morning.

Ms. Olivia Chow: It's good to see you here.

I'm glad this bill is finally in front of us. I'm very happy that we have a chance to deal with this Railway Safety Act. It's been in front of committees several times.

We know that the voice recorder and the positive train control system will improve the safety of both passenger and freight trains. My concern is that VIA Rail has had one-third of capital projects cut in terms of funding, and the ongoing annual cut is at 4%. I believe it's close to \$20 million that VIA Rail is going to lose every year from the government.

This recent talk about privatization of their profitable lines would make matters worse. Even if they want to put in the voice recorder in the locomotive cab, and I hope they will soon, and serious consideration is given to the positive train control system, they won't have the money to install them.

How do we go about giving VIA Rail the financial muscle to improve its safety system?

Hon. Denis Lebel: There are so many things in your questions.

We didn't cut money for security and safety in the operations of VIA Rail. We cut...it was the end of the economic action plan investments we made. We invested \$923 million to help VIA Rail have safer services, and you voted against all of that. That's the end of the economic action plan. That's it. Those aren't different things.

About voice recorders, as you know, in 2009 the Railway Safety Act working group wanted to discuss that. The possibility of legal charter issues was raised, depending on voluntary and regulatory programs. Unions expressed concern and opposition to locomotive voice recorders if used for compliance monitoring by the railways.

Immediately after the incident in Burlington I asked the committee, to be sure we have a quick answer on that.... The advisory council on rail safety is re-examining the possibility of mandatory voice recorders in locomotive cabs. Consultations are under way. They will report back to me as soon as possible. I'm looking forward to receiving their recommendations. They already have had some meetings about that.

In the U.S.A., they don't have the obligation to have voice recorders, but due to the fact that in the U.S.A. they have a positive train system, they are discussing having them. But in the U.S.A. at the moment, they have a lot of problems in implementing that. It's supposed to be in effect in 2015. That's the information I have.

I think they will delay that until 2020, Mr. Bourdon?

Mr. Luc Bourdon (Director General, Rail Safety, Department of Transport): They're trying to.

● (0850)

Hon. Denis Lebel: Yes, they're trying to do that. They have a lot of problems with implementing that. Transport Canada is following this issue very closely, but there they are having many problems in implementing it, so we don't have any assurance, for the moment, that it will help us. We continue to follow that very closely, for sure, and their experience and the technical challenges that will likely delay the implementation in the U.S.A. are of big concern to us.

But that's not about the money VIA Rail had around that. In the U.S.A., they think it will cost around \$13 billion to implement it. That's very, very expensive.

Ms. Olivia Chow: They have a lot more trains than we do.

Hon. Denis Lebel: In the U.S.A. it's \$13 billion to implement that. For the moment, we think we have to continue to invest in security and safety, but that's not the best way to invest our money at the moment.

Ms. Olivia Chow: Would you support mandating voice recorders, rather than making it voluntary right now, if there's a motion here? It has been recommended by the Transportation Safety Board for many years now. There have been discussions. The union tells me they're not opposed to it; that's what they said to me privately. If that was the stumbling block, I see no reason why you wouldn't support making it mandatory. Or would you?

Hon. Denis Lebel: Which were the reasons in 2009, when they said no. It's the same. It's not the time for it. The time for it is to let

the advisory council on rail safety do its job. It is re-examining the possibility of mandatory voice recorders at the moment. It will give us a report. I expect it very soon, as soon as possible. After that, we'll take the decision with unions and all our partners that we have already involved in the Bill S-4 process.

Ms. Olivia Chow: But it could be another five years, three years; for many years we've been talking about voice recorders. Your advisory council has been seized of this file for years, and still there has been no action. Accident after accident—we can't get to the bottom of them because we just don't know what happens in the locomotive cabs.

So why not make it mandatory? You personally said it is something you support. The transport department supports it. Why not make it mandatory? I don't understand the hesitation.

Do you have a deadline? Have you set a deadline for the advisory committee in saying that we must, by a certain time, have a decision, or if not, you're going to mandate it? Are you planning that kind of action?

Hon. Denis Lebel: That's very important, but we have to pass Bill S-4. I'm the fourth transport minister working on this bill. Minister Cannon deposited it. We had Minister Baird and Minister Strahl. I'm the fourth one. I don't want to have more delays on Bill S-4.

It's not for me, but for the Canadian population and for the security of our transport system, we must have Bill S-4 passed as soon as we can. I hope everybody will agree to that.

About voice recorders, we are on the way. I'm sure you will follow the issue. It was important in 2006 and 2009. It's still important today. In the U.S.A., it's not mandatory. We will continue to see what's best for our country's interests. We will continue to follow that. For the moment, I will wait for the report of the advisory council.

Go ahead, Mr. Bourdon.

Mr. Luc Bourdon: Just to answer your question, at the moment what we're waiting for is legal advice on who is allowed to listen to these recordings. What they've tried to achieve in the past few years was probably voluntary agreement, whereas the union and the company would agree on a protocol that probably the recording could be used for purposes other than disciplinary action, such as proficiency testing. Even the TSB at this time is not sure whether these recordings are privileged to the TSB only.

They should be in a position within about two weeks to give us final legal advice. Without that legal advice, it's very hard to get the working group together to work on that issue, because they don't have clear parameters. After we have that, and let's say only the TSB is allowed to listen to these tapes, we'll know better where we're going with this.

It can lead to safety improvement based on what you find on these tapes, but for the most part, it's an investigation tool. There are only a few accidents. For all the derailments that occur past the locomotive, usually you will not get any voice indication that something has gone wrong, because the train goes into emergency. The crew just stops and walks back in the train.

We're seriously looking into it. Honestly, if the legal advice comes back that only TSB can have access to these tapes, we may have no option at the end other than regulating.

• (0855)

The Chair: Thank you.

Hon. Denis Lebel: Didn't you have some words about the PTC?

The Chair: Be very brief, please.

Mr. Luc Bourdon: We'll come back in a few minutes.

The Chair: Go ahead, Mr. Coderre.

[*Translation*]

Hon. Denis Coderre (Bourassa, Lib.): Thank you for giving me the floor.

Minister, I too think that Bill S-4 should be adopted as quickly as possible.

Mr. Chair, I want to salute my Senate colleagues who have done a remarkable job. Since all our amendments were adopted, this time the bill will not die on the *Order Paper*; it must pass. Therefore, we will not be introducing any other amendments. As my colleague from Markham said, we agree that this bill must be adopted.

Minister, we will test you to some extent this morning by asking you a few questions, for the benefit of the thousands of people watching you on TV. It is our duty to ask concrete questions regarding the consequences this bill will have on safety. Are there enough inspectors to ensure enforcement?

Hon. Denis Lebel: There is a sufficient number of inspectors. We have increased the budget by \$72 million over the past five years in order to increase the number of inspectors. Some \$15 million was added permanently. You are correct, sir, in saying that the bill will allow Transport Canada to improve its oversight capacity to ensure enforcement of the act and will increase the department's powers. It also enhances the role of rail safety management systems for railway companies. Safety is extremely important to us, and we have the teams needed for that purpose.

Hon. Denis Coderre: This means that you are increasing the number of inspectors for that purpose.

Hon. Denis Lebel: Mr. Bourdon, could you talk about the inspectors?

Mr. Luc Bourdon: We have already hired 56 people.

Hon. Denis Coderre: How many inspectors in total?

Mr. Luc Bourdon: There are a total of 120.

Hon. Denis Coderre: Very well.

Hon. Denis Lebel: There are 56 new inspectors.

Mr. Luc Bourdon: There are 33 in the regions and 23 in Ottawa for the programs.

Hon. Denis Coderre: Apparently, if workers do not like something or have witnessed something, this bill would protect them. We call these people whistleblowers.

Hon. Denis Lebel: Absolutely, sir. We must also remember that all companies will have to designate a senior executive accountable for safety and implement a non-punitive process to allow reporting by employees, to help us improve safety at each company and across the country in general, in partnership, as we do at present. Unionized employees who identify issues that can be improved in the rail safety system will be able to report them to their boss and to us without being subject to penalties. This is very important, because our approach is based on safety, and it adds the environment to our major concerns.

Hon. Denis Coderre: We are talking about certification and penalties. If the bill passes—and it will—what will this mean with regard to the proximity of railways in urban areas where people live, for example, when they have to use grade crossings? We can impose penalties but what real impact will this bill have in those instances? Will grade crossings have to meet certain conditions? Can you give concrete examples of how this bill will improve safety?

Hon. Denis Lebel: As you know, we have done significant work on railway crossing security, and we will continue that. Bill S-4 shows our determination to go forward to make companies even more accountable. Before, we made sure companies were insurable and that they worked in the railway industry. Now, to get their certificate, they will have to conform to our new safety standards. We will analyze every step of their security measures before issuing the certificate.

Obviously, sir, it is very difficult to control access in an urban setting. Unfortunately—and my condolences to the families—we have lost young lives even recently. These were young people walking on the tracks with headphones on their ears in the evening or at night. This is particularly dangerous. We have seen young people in Montreal cross two highways and jump over fences to go to a place where, unfortunately, a tragedy happened during the night. There were safety barriers, but, since then, an event happened in Montreal around the Turcot interchange. The company added safety fences.

With Bill S-4, our intention is to make sure that things will be even safer. However, we cannot hold everyone's hand. We already do a lot of education in the schools. We do more than 2,000 presentations per year in the schools and municipalities across the country to raise awareness about the danger of railway transportation for people on railways. Unfortunately, even now, lives are lost. It is always deplorable, but some people still jump over barbed wire fences that are 12-foot high.

• (0900)

Hon. Denis Coderre: This means, Minister, that it does not suffice to have a document. The certificate is one thing. There will be a follow-up.

Hon. Denis Lebel: Exactly.

Hon. Denis Coderre: There will be ongoing oversight.

Mr. Luc Bourdon: To answer your question, Mr. Coderre, I will say that in six to nine months, we will publish regulations on railway crossings that will better define safety for crossings and that will impose new standards for the industry.

Hon. Denis Lebel: Let's talk about the money spent annually on railway crossings.

Mr. Luc Bourdon: Last year, we invested more than \$14 million in the program that helps railways and municipalities.

Hon. Denis Coderre: I want to make sure that there will be a follow-up, because only imposing a fine will not solve this problem.

Mr. Luc Bourdon: No. New regulations will be out in the coming months. They should be in the *Canada Gazette* before the fall.

Hon. Denis Coderre: We now hear that VIA Rail wants to privatize some routes. What is the link between Bill S-4 and some privatization, or private companies? Will you still be able to apply this?

Hon. Denis Lebel: This does not change a thing.

Hon. Denis Coderre: When it is a private company, you do not act, but not in this case.

Hon. Denis Lebel: There are a lot of rumours. We will see what happens, sir. For now, there is nothing in the works in the short term. Of course, we hear ideas. We have information and we also have advice that allows us to see where the industry can go. However, this does not change a thing with regard to the safety aspect of Bill S-4. It seeks to strengthen our system's safety.

Mr. Luc Bourdon: I just wanted to add that Bill S-4 increases accountability for railways. In fact, with this bill, provincial jurisdiction railway cars that use federal railways will be covered by the act, which is not the case actually.

Hon. Denis Coderre: I imagine that you also work with municipalities.

Mr. Luc Bourdon: And we also work with the provinces.

Hon. Denis Lebel: The Federation of Canadian Municipalities, which represents all municipal unions in the country, participates in this process. It has participated since the beginning and will continue to participate in what is coming up.

Thank you very much.

Hon. Denis Coderre: Thank you, Minister.

[English]

The Chair: Thank you.

Monsieur Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Thank you for being here.

Ms. Chow has cited the Transportation Safety Board, correctly, as a reliable source for questions related to rail safety. She has also advocated the positive train control system.

Doing these two things does create a certain contradiction, because the Transportation Safety Board has not recommended that Transport Canada implement the positive train control system.

Minister, you correctly point out that the United States is facing serious implementation problems with this system. The costs appear to be between \$10 billion and \$13 billion. The railways are asking for a delay of five years in implementation. Originally it was scheduled for December of 2015. They now seek to have it delayed an additional five years, to 2020.

All of this demonstrates the enormous complexity and cost associated with this system.

Can you comment, Minister, on our approach with respect to this system here in Canada?

Hon. Denis Lebel: As I said before, we're monitoring what's going on in the U.S.A. and all around the world. It depends on the kind of rail system you have. Many U.S. railways at the moment have a lot of problems, extreme cost related to positive train control system implementation, and therefore we're not sure of the result. Transport Canada... We hope that will go as well, and that in the end we'll reach the goal they have and we have—to have safer railway services. But for the moment we're still monitoring that, and we are very close in this process.

I will ask Mr. Bourdon to give you more details on where we are now on that.

Mr. Luc Bourdon: As you know, that was mandated by the U.S. Congress with the Rail Safety Improvement Act passed on October 16, 2008. All the class 1 railways that transport more than five million gross tonnes, as well as transporting what they call poison-by-inhalation and toxic-by-inhalation material, as well as commuter rail and inter-passenger rail, had to implement PTC by December 30, 2015.

However, PTC is a very good system if you have a captive service with one company on your own network. It becomes an issue when you have to be interoperable with other railways. PTC in the States will cover about 41 railways and 60,000 miles of track. As we speak right now, there are several systems that have been developed and they're not talking to each other; therefore, the U.S. railways feel they're not going to be ready by that date and they're asking for an extension of five years.

Since many railways are trying to get PTC in the States right now, there's a lack of resources in terms of people available to work on the technology. The cost is extremely high. The cost-benefit ratio is 21:1, so \$1 saved for \$21 invested in PTC.

We're following it very closely. We have people on the committees out there. I'm on committees as well. We also met the technology provider, Wabtec, which provides ETCS to the five class 1 railways out there. Their recommendation to us is to wait until it's fully implemented in the States and they've worked out all the bugs. Then we may have something like a turnkey operation if we ever want to implement that technology in Canada.

It's the same thing in Europe. They have a system called ETCS that has been in place for about 30 years. Twenty years ago they launched—

• (0905)

Mr. Pierre Poilievre: You listed the acronym for the European system. Can you just state that?

Mr. Luc Bourdon: ETCS is European train control system, which is a form of PTC that works with transponders on the track, a bit like what Amtrak has developed, which is not compatible with the electronic train management system adopted by other systems in the States. However, 20 years ago they decided in Europe that the 30 countries have to become interoperable, so they created something called the European rail traffic management system.

Mr. Pierre Poilievre: How has that worked?

Mr. Luc Bourdon: It's not working right now. That's the issue. In the *Railway Gazette* of last month they published an article in which they say that after 20 years they do not have any locomotives from different railways that are compatible with others. So there are issues. The technology is wonderful. We just have to work the bugs out of it. Then eventually, once the United States has figured everything out, it's something we could seriously look at in Canada and do a more cost-efficient implementation of it.

Mr. Pierre Poilievre: Sir, you said it is something we could do in Canada. Is "it" the European system?

Mr. Luc Bourdon: It would be whatever system we'd like to adopt, but it has to be one system so that it's fully compatible.

Mr. Pierre Poilievre: All right.

On the issue of cost, the PTC system in the United States will cost somewhere in the neighbourhood of \$13 billion.

Mr. Luc Bourdon: That's what we think, yes.

Mr. Pierre Poilievre: There is a finite amount of resources available to rail transportation in the United States, as in all countries. Presumably, if you take \$13 billion—which is the most expensive federal mandate in rail transportation history in that country—out of the rail transportation pot, that means less money for other aspects of rail transport, does it not?

Mr. Luc Bourdon: Yes, absolutely.

Mr. Pierre Poilievre: If you take \$13 billion out of rail transportation to dedicate it to a system that won't be implemented for another eight years, is it possible that some of that \$13 billion will subtract from other, more effective safety systems that could have been implemented more quickly?

Mr. Luc Bourdon: According to information we got from the FRA and the AAR, without the Chatsworth accident, the one that triggered PTC in the States, they figured there have been two accidents in 20 years where there have been multiple fatalities that would have been PTC preventable. The argument they're making is

that if you used that \$13 billion and put it into improving crossings, you would save many lives every year. But would they do it? That's a different thing.

The Chair: Thank you.

Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair, and thank you to our minister and the Transport Canada officials for being here today.

Obviously, rail safety in Canada is a very important issue. Bill S-4 has had previous iterations before previous Parliaments, itself arising from two reviews that themselves were the result, if we're going back far enough, of a series of major high-profile train derailments in Canada that incurred both loss of life and significant environmental costs. Transport Canada, for its part, appointed an expert panel, which led a comprehensive review and produced a major report—I believe it's about 240 pages and 56 recommendations.

At the same time, I was part of the Standing Committee on Transport, Infrastructure and Communities, which was part of a concurrent study here into rail safety as well. We produced a report with 14 additional recommendations, 70 in total. If I remember some of the substance of the expert report, the ratings on safety performance of rail companies on a scale of one to five, five meaning the highest integration of safety within the company's culture...VIA Rail ranked four out of five, CP about three out of five, and CN two out of five.

Looking at ways of improving rail safety, or the culture of rail safety, in our companies—those 70 recommendations in total—can we have an indication now, four years later, of the progress in implementing both the expert review panel recommendations and the standing committee on transport's recommendations? Where are we on that?

• (0910)

Hon. Denis Lebel: Once Bill S-4 is passed, we will have implemented 83% of the recommendations.

Luc, where are we now?

Mr. Luc Bourdon: Out of the 56 generated by the panel, we have addressed 47. Some of them will never be addressed because either we don't have constitutional authority to address them or we feel they have no value added. The 14 generated by SCOTIC were all addressed, except the ones where we were asked to appear before the committee, because there was an election after that and the committee disappeared. But for the most part, as the minister mentioned, over 80% have been addressed.

Mr. Jeff Watson: The consultation process has been very extensive, related to the proposed amendments to the Railway Safety Act. How would you characterize the relationships among the companies, the union, and the government in terms of consultation? How advanced is that? How mature, if you will, are those relationships? Can you give us some indication?

Hon. Denis Lebel: You go ahead.

Mr. Luc Bourdon: I think it was excellent. Many of the recommendations were considered joint recommendations; we created joint working groups with unions, Transport, and the rail industry, and they were addressed by these joint working groups. For example, in terms of safety management systems, we achieved some guidelines that are now being endorsed by the union, management, and the NTC, which I had the opportunity to present at an international conference last year. I think we may be one of the only countries that has been able to achieve something like that, that level of maturity with the unions and companies. It's been excellent.

Mr. Jeff Watson: So it would be prudent for this committee, for example, not to step ahead of this relationship in mandating that a particular technology be implemented. As the minister said, I think we should wait for the working group to have a solid consensual agreement on how they want to move forward before we consider the hammer of regulation, if you will.

Hon. Denis Lebel: It's very important to continue that way. As we said, the tools we will have with Bill S-4 will permit the unions, the workers, to be part of our solution. We have already done a good job, because since 2007 we haven't cut investments in rail safety; we've invested more. Since 2007, train accidents have decreased by 23% and train derailments by 26%. But we want to continue. We want to have better scores.

Mr. Jeff Watson: You mentioned workers. Of course, the proposed amendments here would allow workers to participate in terms of raising safety concerns to Transport Canada without fear of reprisal. That would be a positive step forward. Can you explain that a little bit?

Hon. Denis Lebel: Go ahead, Luc.

Mr. Luc Bourdon: There are actually two things in tab 37 of your binder. One deals with the reporting of unsafe acts directly to Transport Canada without fear of reprisal. So that's going to be in place.

Second, previous safety management system regulations required that a company involve employees in implementing day-to-day management of the SMS. Bill S-4 proposes that a bargaining agent now be involved so that a union representative will be directly involved in selecting the appropriate individual to participate. So that's a great improvement as well.

● (0915)

Mr. Jeff Watson: There are also proposals with respect to requirements for environmental plans. There have been environmental costs associated with previous train derailments as well as with certain aspects of operations, in the rail yards, for example. If there's a spill in the rail yard, it's not necessarily covered.

Can you talk about the requirement for environmental plans? Does that apply to rail properties and rail rights of way?

Mr. Luc Bourdon: There's a provision in this bill that would allow the Governor in Council to make regulations with respect to environmental plans that would require the railway to file an environmental plan with Transport Canada, to demonstrate how they're measuring compliance with that plan, and to allow our own inspector to measure the railway's compliance with respect to the plans they file with us.

Mr. Jeff Watson: Can you briefly describe what the safety requirements now imposed under the new rail operating certificate change? In other words, prior to this proposal, what did a rail company need to establish itself?

Mr. Luc Bourdon: For years, when someone wanted to start to operate a railway, they just had to go to the Canadian Transportation Agency and demonstrate that they had enough money to cover liability. One of the things the panel determined when it did its review was that there was probably a void, in that there were no safety requirements to determine whether a company was able to operate safely. At Transport Canada, through a project we call "regulatory capture", we found that some new railways were operating without rules. Now all railways currently operating under provincial jurisdiction that are operating on a federal track will be required to obtain a railway operating certificate that will be based on a regulation that will determine the criteria they must meet in order to obtain their certificate. We're going to be able to remove it or alter it.

The Chair: Thank you.

Mr. Sullivan.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair, and thank you, Mr. Minister, for being here.

The Auditor General found—because we're talking about safety—that Transport Canada does not know to what extent organizations transporting dangerous goods are complying with the existing regulations. Its review of emergency response plans submitted by organizations is not timely or accurate. It's given temporary approval for nearly half the plans required for transport of the most dangerous regulated goods, such as types of ammonia, acids, and explosives. Temporary approvals are subject to less verification, and they have been in place for 10 years and more in some cases. Many of those weaknesses we found at Transport Canada were identified more than five years ago and have yet to be fixed.

This bill doesn't do anything to help you there, does it, Mr. Minister?

Hon. Denis Lebel: That's a different issue.

Mr. Mike Sullivan: Isn't it safety?

Hon. Denis Lebel: It's not about safety but about the transport of dangerous goods, as you said. Bill S-4 will cover a lot of things.

With regard to the environmental issues, as Mr. Bourdon said, we'll have better tools. For dangerous goods, we will follow what the Auditor General said about that. We will continue to have better results, and we'll continue to fix that.

Mr. Bourdon, do you have some words about that?

Mr. Luc Bourdon: The transportation of dangerous goods is under a different act than the Railway Safety Act, and there's a section on rail transportation. It concerns a different directorate when you talk about TDG.

Mr. Mike Sullivan: But we are. We're here to talk about rail safety, and that's one of the issues.

Hon. Denis Lebel: We are here to talk about the passing of S-4, sir.

Mr. Mike Sullivan: Moving on, then, since we don't have a straight answer on that—

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

Mr. Ed Holder (London West, CPC): No disrespect to my colleague opposite, but I actually thought today the subject was the Railway Safety Act. I think the member opposite would know very clearly that there's a distinction between the two. But if not, I wanted to just bring that to his attention for the purpose of being able to focus on why we're discussing it here with the minister present. No one is suggesting that safety is not an issue, but I think we just want to be clear, and I know the member opposite would want to be clear on the distinction between the two.

The Chair: Thank you, Mr. Holder.

Mr. Sullivan.

Mr. Mike Sullivan: What the question was attempting to point out was that this act does not, in fact, improve Transport Canada's ability to regulate the transportation of dangerous goods. That was agreed to by the minister.

Hon. Denis Lebel: No, that's not what I said.

[*Translation*]

I said that we were talking about Bill S-4 today, but you are speaking about another piece of legislation. It is completely different from what we are talking about today. I will say it in French because it is easier for me in that language. I said this was not the topic that we were discussing today. You want us to debate another aspect of the legislation. I never said that safety was not important.

Everything we are doing today, and everything that Transport Canada is doing, seeks to increase the safety of all modes of transportation in Canada. We have been talking about Bill S-4 since 2006, to improve the situation in relation to railway safety.

We are asking people to focus on passing Bill S-4 and to send this bill forward so that it is adopted as quickly as possible, so that we can increase railway safety in Canada. That is what we are doing today.

• (0920)

[*English*]

Mr. Mike Sullivan: Let's move over to the requirement for a railway operating certificate, which is part of Bill S-4. Can you tell me the requirements to obtain one? Will public transit agencies, such

as GO Transit, Metrolinx, the new Air Rail Link, TransLink, and other urban transit agencies, need to acquire one of these? And what will they have to do to get one?

Mr. Luc Bourdon: First, in the bill there is a provision to put a regulation together. Once the bill is passed, the first thing will be to develop the regulation to determine the criteria for obtaining this certificate. First, we need the bill to get the authority to put the regulation together, which will determine the criteria.

As far as who would be covered by the certificate, obviously if you do not operate on federal tracks, you would not be required to obtain a railway operating certificate. Commuter rails, such as those in Calgary or Edmonton, would not be covered by that. West Coast Express would be, because they operate on federal track, on CP's track. AMT, in Montreal, would be, because they operate partially on CN and CP, as would GO Transit for the portion they operate on CN's network.

Mr. Mike Sullivan: GO Transit, where they own the tracks themselves, would not require it.

Mr. Luc Bourdon: No, because they would not be under federal jurisdiction. We have no authority over them when they are—

Mr. Mike Sullivan: But CN and CP operate on those lines.

Mr. Luc Bourdon: Where CN and CP operate on those lines, CN and CP will require a railway operating certificate. Therefore, they are going to operate on what we call a host railway. Therefore, we are going to look for evidence that they are doing it together.

Mr. Mike Sullivan: Only portions of GO Transit will be required to have a certificate. How does that work? For those lines they operate on their own, they don't have to have a certificate. How is that going to work?

Mr. Luc Bourdon: We don't have authority to force them to obtain a certificate, but I don't think they will carry two sets of books, a safety program for their own track and a different one for CN and CP. We have been talking extensively with GO Transit. As a matter of fact, we have put a working group together to work on the railway operating certificate, and someone from GO Transit is a member.

The Chair: I have to stop you there. I am sorry.

Mr. Adler.

Mr. Mark Adler (York Centre, CPC): Thank you, Chair.

Minister, thank you for being here today to talk about Bill S-4. As you know, this is a very timely, necessary, and important act. I'm glad you are here.

I just want to ask you a couple of questions. In terms of the lead-up to the act, could you talk a bit about the consultation process and just how thorough it has been?

Hon. Denis Lebel: Yes. It started in 2006, when our Conservative government launched a review of the Railway Safety Act. This review was led by an independent panel of experts who commissioned research and held extensive public consultations across the country.

At the same time, this committee launched its own review of rail safety. The review involved consultations with all interested parties, including railway companies, associations, labour organizations, municipalities, members of the public, and other levels of government.

When combined, the two reviews made 70 recommendations, as we said before. Our government has already addressed and implemented many of them.

Did you say 47 of them, Luc?

Mr. Luc Bourdon: Yes, there were 47 of them.

Hon. Denis Lebel: In 2010 our government tabled Bill C-33, which is virtually the same bill we're discussing today. Since Bill C-33 was tabled, our government has continued to discuss the proposed amendments with stakeholders. Further consultation will occur as part of the regulation-making process. Going forward, many members have congratulated our government on the extensive consultation on that one draft before the drafting of this bill.

Mr. Mark Adler: Thank you.

You had indicated earlier that in the economic action plan, which was not supported by the opposition, there was a \$923 million proposed investment in rail safety. Could you highlight some of the actions that were being proposed within that \$923 million that the NDP chose not to support?

• (0925)

Hon. Denis Lebel: Since 2007 we have invested in VIA. We have provided VIA with \$923 million to modernize its services. This investment includes various initiatives to improve safety, such as installing signals to control train movements and upgrading highway crossing protection. Our efforts are no thanks to the opposition. They voted against it, but the chair and the CEO said it was very important for them, and they did a good job in the busiest corridor in the country. We'll continue to support them in that way.

Mr. Mark Adler: Thank you.

I'll defer to Mr. Holder.

The Chair: Mr. Holder.

Mr. Ed Holder: Thank you, Chair, and I thank my colleague for sharing his time.

Minister and Monsieur Bourdon, thank you very much for being a part of today's meeting.

As I try to understand more fully the various amendments that are in place, first I'd like to say that it's important to hear that some members opposite are supporting this. Hopefully when this is done we'll have all members opposite supporting it. This has gone through a process more than once, whereby even with the minority government we got the support of all parties. If we could do it then, I sincerely believe we can do it now. With the good work of all members of the Senate, I would say this has gone very much the right way.

One of the amendments that I've seen, Minister, is on the issue of expanding regulation-making authorities, particularly around the areas of environmental protection. Would you help me understand a

little more what that means? Perhaps Mr. Bourdon could expand on why that matters.

Mr. Luc Bourdon: The panel felt, especially in yards when there were some spills...it's a confined area, and nobody knew exactly what would happen after these spills and all the cleanup that would occur. They thought it would be appropriate to require the railway to file environmental plans to let us know, first of all, what they would put in place to prevent these spills from occurring, and once they happen, how they were going to recover. They would file these plans with Transport Canada; they would demonstrate to us how they would measure compliance and allow our own inspector to audit them to make sure they're in full compliance with their own plan. That would go beyond the yards as well to rights of way.

Mr. Ed Holder: One of the other issues is that these amendments are intended to clarify the authority and responsibilities of the minister. From a change standpoint, what would those authorities and responsibilities look like?

Mr. Luc Bourdon: They were more to clarify the role of the minister in some areas in which we were already doing some things. For instance, in research and development and evaluation of new technology, we've been handling projects for years, but it's never been clear in the act that we had authority to do it. We've put that into the act, to allow the minister to do some investigation and to allow the minister to launch some studies and some analysis. Most of them are just to make this act in perfect harmony with civil aviation and marine transportation.

The Chair: I have to stop you there. We're going to take a brief recess.

Thank you, Minister, for attending today. Monsieur Bourdon, you're going to stay with us. You're scheduled for one hour, from 9:30 a.m. to 10:30 a.m.

We'll take a two-minute recess and reset the clocks.

• (0925)

(Pause)

• (0935)

The Chair: Thank you. Welcome back for the second hour. We'll continue with the order of questioning we were following.

Ms. Morin.

[Translation]

Ms. Isabelle Morin (Notre-Dame-de-Grâce—Lachine, NDP): Thank you, Mr. Chair.

Good day, Mr. Bourdon. I thank you for being here.

I would like to talk about railway crossing regulations. Mr. Coderre talked about it briefly earlier. You said there would be new regulation. I am wondering if the provisions of the bill on this matter are sufficient. The minister said that there were accidents, that young people crossed fences, etc. Should we not focus on the most dangerous crossings, where there are accidents, where there are more young people and no surveillance? In the cities, should we not build tunnels or trenches to make sure that things are as safe as possible?

Mr. Luc Bourdon: We do not have the authority to require tunnels over or under railways. As far as we are concerned, the regulation will increase the protection at railway crossings. However, if we see that the situation is not under control, we will take measures like reducing the speed of trains, or require them to whistle. In some cases, we can even compel them to stop at grade crossings so that an employee steps out to protect the train and the people while the train crosses the crossing. These are the kinds of measures that we suggest.

As for tunnels, I have once or twice seen situations where people were complaining that it was dangerous to use them at night. When I was working in the Quebec region, people contacted me. In the area of Notre-Dame-de-Grâce, people even wanted that a tunnel be closed because they considered it dangerous for the population.

In general, we try to work with the railway people in imposing measures that will make the situation safer. On the other hand, the regulations will impose new standards.

Ms. Isabelle Morin: Thank you.

Under the new legislation, employers will have to report security problems to Transport Canada.

Why have you decided that the Transportation Safety Board would no longer receive such reports?

Mr. Luc Bourdon: Because the Transportation Safety Board already uses the Securitas system, which goes a bit further than ours. These people also receive complaints from the public, whereas we only deal with internal reports. This enhancement was brought to the safety management systems. This is for employees who witness unsafe acts, and addresses situations where such acts could occur due to lack of training.

Ms. Isabelle Morin: However, employees will not be able to go directly to the Transportation Safety Board, right?

Mr. Luc Bourdon: When employees submit a complaint to Transport Canada, we investigate immediately. Often, it is a case of non-compliance with rules or regulations. When people go to the Transportation Safety Board, they have to send us a security notice and write a letter. This involves delays. However, from now on, complaints will come to us directly.

For example, when an employee inspecting a train feels that some cars should have been taken off the train for repairs, but a supervisor let the train leave with the cars, this employee will be able to report this situation. This has already happened in the past. In most cases, we will send an inspector to inspect the train upon arrival at its destination. This will certainly eliminate delays.

However, the Transportation Safety Board will be the go-to office for the public. But employees will also be able to go to the board.

Ms. Isabelle Morin: All right.

The safety management system presents several interesting features. For example, I believe it a very good thing that people be legally held responsible for negligence or misconduct.

On the other hand, how can we make sure that inspectors will be kept in their positions? We have seen how, for example, in the

aviation field, there are inspectors on paper, but they are not necessarily in the field and there certainly are not enough of them.

How can we make sure that, under this bill, enough inspectors will keep their jobs? You spoke of 120 inspectors, but if the number of trains throughout Canada is increasing, how do we know that this is a sufficient number of inspectors? How can we make sure?

Mr. Luc Bourdon: Our oversight system is made up of two components. First, the inspection component. That deals with checking equipment, the track itself, as well as the training of on-board staff. This is done under current rules and regulations. The other component is security management systems. This is done through audits that are complemented by interviews with staff and by inspections.

So even if CN or CP were to increase their rail traffic, the auditors' workload remains the same, because it is essentially an issue of checking documentation. Then of course, there is the verifications with employees in the field to see how things really happen there.

As regards safety management systems, the bill provides for 20 new inspectors. I think we now have what we need.

• (0940)

Ms. Isabelle Morin: So you say they mostly do documentation checks?

Mr. Luc Bourdon: In fact, there are two aspects to what is commonly called an audit. First of all, to see if a company really has a safety management system and respects it, you first check to see whether they have actually put in place policies and procedures. Secondly, you check whether they are implemented, and you do this through interviews with employees and on-site inspections.

[English]

The Chair: Thank you.

I have to go to Mr. Toet.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair.

Thank you, Mr. Bourdon.

You talked about a decrease in incidents since 2007. Can you give me those numbers again? Was it 23% in 2007?

Mr. Luc Bourdon: I have the numbers here from the TSB. Collisions at crossings went down about 22%, trespassing accidents by 34%, and main track derailments by about 26%. Overall, if you look at it, for main track, trespassing, and crossings—the one we're really following—there's been a decrease, yes.

Mr. Lawrence Toet: I ask because this seems to really coincide with the timing of the two comprehensive reviews that were undertaken starting in 2006. It seemed that all the stakeholders were working together in a very efficient manner: labour and union, management, industry, and government. There was a great cohesion happening there.

Do you see that as a bit of a cultural shift that has occurred going through this process?

Mr. Luc Bourdon: Definitely. I think it was a real eye-opener for many in the railway. I think the panel did some very good work. They consulted extensively. They had 15 public consultations. More than 70 people showed up to make their own presentations. I think 185 papers were tabled. They had 83 bilateral meetings with stakeholders. So I think whatever they had in that report was pretty accurate, pretty reflective of what's out there in the rail industry. I think some of these railways really needed to get their act together. We saw some of the major railways really turn around after the report.

There was a bit of apprehension at the beginning when we recommended that the recommendations be addressed by unions and the companies together. I think everybody right now will unanimously say that it worked extremely well. I think it really changed some of the railways that needed to improve. We see a real cultural shift right now, and the stats show that.

Mr. Lawrence Toet: I guess my point is that we can have regulations, and regulations are good in and of themselves. They're required and necessary, but a true safety environment only occurs when we have a cultural shift.

Are we seeing that same shift also being brought out to the public? You talked about a decrease in incidents at crossings. We talked about a decrease in trespassing incidents. Do you see the companies reaching out to the public to have better education there?

Mr. Luc Bourdon: We've increased our resources for outreach. We now have five more people than we had, just to deal with education on crossing and trespassing. The government added some money with Operation Lifesaver as well, which focuses on crossing and trespassing prevention. They do about 2,000 presentations a year and have over 500 volunteers. That has an impact. We have more people on the ground as well. We got more money for the crossing improvement program. So obviously it really pays.

Just to give you statistics, for the crossings that were upgraded using the grade crossing improvement program, fatalities have decreased by 81%, so it's really paying.

We also commissioned a study on trespassing fatalities. The Université du Québec à Montréal looked at over 800 coroners' reports in the past 10 years. They've been able to determine that 48% of all trespassing fatalities were actually suicides. It's unfortunate that these things are happening, but about one out of two was actually a suicide. The same thing occurs in the States. These are probably a bit harder to prevent, but by relying on education, I think we've done a better job.

• (0945)

Mr. Lawrence Toet: The most likely cause of death involving real accidents, I understand, would be trespassing issues.

Mr. Luc Bourdon: Yes.

Mr. Lawrence Toet: Going back very briefly—I don't want to dwell on it—would positive train control have any impact on those particular incidents?

Mr. Luc Bourdon: No.

Mr. Lawrence Toet: So...

Mr. Luc Bourdon: Positive train control will basically prevent four things: it would prevent over-speed, if a crew is going over the

speed limit; it would prevent a collision between two trains; it would detect if a switch is left in the reverse position and would slow down the train; and if there's a work zone ahead of the train and the train is not slowing down because they did not get permission from the foreman to go through, it would slow down the train.

What you would need in order to prevent what you're talking about—trespassing—would be some sort of detection on the track. With 72,000 kilometres of track in Canada, it would be almost impossible. Many of those systems are being tried out throughout the world right now, but an animal will trigger it. There are all sorts of things that may...someone who just goes through very quickly will trigger the system. They are not up-to-date right now.

The Chair: Thank you.

I'll turn it over to our newest member, Monsieur Aubin. Welcome.

[*Translation*]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Mr. Chair.

I would like to take this opportunity to thank all the members of the committee for their warm welcome this morning. I greatly appreciate it.

Mr. Bourdon, thank you for sharing your expertise with us.

You have before you probably the most junior member of the committee this morning. But I still have some questions. Perhaps you can give me the big picture.

Air and rail disasters are always the most spectacular. Despite the catastrophic nature of air accidents, we believe that air travel is still the safest mode of transportation. With this new bill, S-4, could we say that rail transportation will edge closer to air transportation in terms of safety?

Mr. Luc Bourdon: I believe that rail transportation is just as safe as air transportation. Our data show a constant improvement in safety. Under Bill S-4, safety will be enhanced even further. For example, railway undertakings have to apply for a safety certificate. The fact that all railway companies must show that they have implemented all measures to guarantee safety before they can even start up operations is a good thing. The same goes for existing railroads. And we will add monetary sanctions which will motivate companies to comply with regulations.

As for the environment, there is a section stating that railway companies will have to file an environmental protection plan with our department. This bill covers a lot of ground, including legal penalties.

Mr. Robert Aubin: Without minimizing the impact of these new developments, which are significant, it remains that these new measures are mainly administrative in nature. It seems to me that transportation safety must also be achieved through improving and updating technology, which is constantly evolving. Does the department have a budget for research and development?

Mr. Luc Bourdon: Yes, absolutely. We have set up a joint committee with representatives from railway companies and the University of Calgary, with whom we have set up a railroad studies laboratory. We also cooperate with the Association of American Railroads, the AAR, which has a testing site in Pueblo, Colorado, called the TTCI. We help fund some of their projects. We look very closely at what the Americans are doing, as they have a budget of \$35 million per year. We do not have that kind of money, but their research applies to us in our context because we use the same equipment.

As regards safety, it is important to note that in over 51% of derailments, only one car actually derailed. You cannot see a train with just one car upside down. If it is just one car, that means it is one pair of wheels that left the track. Almost 85% of derailments involve less than four cars. This means that there are actually very few disasters as such.

Mr. Robert Aubin: Does Bill S-4 compel the transportation department to research new technologies? Is there any way to put this money aside to shelter it from future budget cuts?

Mr. Luc Bourdon: Bill S-4 does not make research and development mandatory. However some legislation like the Railway Safety Act, some sections of which are included in Bill S-4, do encourage the introduction and use of new technologies under existing rules. For example, under existing rules, we can test new technologies in just about 35 days. If all goes well, in less than four months approximately, we can allow a blanket exemption for a rule or regulation in order to encourage the introduction of new technologies.

For example, we are testing a new technology with Canadian Pacific to eliminate the use of brake tests. We are testing heat detectors that will detect brake malfunction from the heat of the wheels. Almost all companies in North America are examining this revolutionary new technology.

• (0950)

Mr. Robert Aubin: PTC was mentioned earlier on. It would seem that the cost-benefit ratio of this technology is too far from what we are looking for to even think about implementing it. With regard to research and development, are there other available systems that would be just as efficient but more affordable?

Mr. Luc Bourdon: There is a system that I would describe as a system of signals in the cabin. These signals appear on a screen, which allows the crew to see the next signal and to know what restrictions are coming up, in terms of speed, for example. But no Canadian railway has that system. We are really looking into this to see how PTC is working in the United States.

First of all, under the act, as it stands today, railway companies could be forced to implement PTC. No amendment would be necessary.

In any case, we are keeping an eye on how the technology is evolving. Once the problems with the system have been ironed out and the cost analysis is complete, we will have a much better grasp of the situation and access to a much cheaper system, I think.

Mr. Robert Aubin: Thank you, Mr. Chair.

[English]

The Chair: Mr. Richards.

Mr. Blake Richards (Wild Rose, CPC): Thank you, Mr. Chair.

I appreciate your being here today.

This isn't the first time we've seen this bill, or a bill similar to this one, come before this committee. Obviously both here at this committee and elsewhere there's been a lot of consultation and discussion about this bill. There seems to be fairly widespread support for the bill as well.

I'd like to get a sense of this from you. With this minister being the engaging guy he is, I'm sure there's been a lot of consultation. Whether it be with industry, the public, or other stakeholders, I know there's been a lot of consultation taking place.

I'd like to get a bit of a summary from you on some of the consultation that has taken place, what form that has taken, and what exactly has been done in terms of discussion of this bill with industry, the public, and other stakeholders as well.

Mr. Luc Bourdon: We actually met with all of the provinces on this bill in its current form and under Bill C-33. We gave them a clause-by-clause...and we saw no issue or concern.

We met with all the railway unions. We met with most of the companies. We participated in many conferences across Canada where we knew that stakeholders would be in attendance.

We did pretty much a massive...I wouldn't call it consultation because we told people what's in the bill. I think we've been able to do a good job to diffuse many concerns people had, especially with respect to the railway operating certificate. People were concerned about what it would entail and when they were going to need one.

Everybody found out that we would do a consolidated group with industry members and the unions to determine the criteria and that there would be a two-year grace period once the regulation is in place. This is an example where people were concerned, and after we explained the process they felt it would be solid.

It was the same thing with administrative monetary penalties. A lot of the railways at the beginning said we were going to have guys out there with a booklet of tickets; we were going to give them a fine. It's a maximum of \$50,000 for an individual and \$250,000 for a company. We explained the process we would have in place: a regulation, with one enforcement officer per region and one in Ottawa who will make recommendations on the level of the AMPs.

There's a provision in the bill as well to appeal to the Transportation Appeal Tribunal of Canada. This is the only tribunal that is going to be allowed to overturn our decision or reduce the fine.

By talking to all the stakeholders, I think we've been in a very good position to get acceptance for this bill. That's why there were so few amendments brought to the committee the last time.

• (0955)

Mr. Blake Richards: Certainly there has been a lot of consultation and discussion, and I'm not surprised by that at all. By what you've heard and the inputs and suggestions that have been made, it sounds like there's been a receptiveness to the bill.

To follow along on that, since Bill C-33 I think there have been some amendments to the bill. Can you tell me a bit about the amendments that have been made and what effect those will have?

Mr. Luc Bourdon: Just going from my memory, I'd say that most of these amendments have had value added. There were some proposed by the teamsters. For instance, in terms of the whistleblower protection, Bill C-33 was requiring the employees to report directly to the companies. The unions felt that with the relationship they had with Transport Canada, and with the trust that was between us and them, we could handle that. So this was one of their amendments.

They also asked that fatigue science be considered within a safety management system, which was also tabled by members of this committee at the time. There was also the possibility for all regulations passed by Transport Canada to be revised by this committee.

There have been some housekeeping items. For instance, with all the stakeholders that were involved with revising this bill, some of them, and even us, found that words were missing at some points. Amendments were proposed to add these words that may have been missing. In section 11 of the Railway Safety Act—clause 8 of this bill—there was something with sound engineering principles where “maintenance” was left out. One of the amendments was to add it.

Those were, I'd say, the main amendments that came through this committee. As I said, there was very little.

Mr. Blake Richards: Thank you. I appreciate that.

The Chair: We've finished our rounds, but I'm going to open up the floor to each party for five minutes.

Ms. Chow or Mr. Sullivan? I know you're going to split your five.

Ms. Olivia Chow: You can start.

Mr. Mike Sullivan: Okay.

On the issue of rail crossings and pedestrian safety, it's been my experience that the railroads don't maintain their crossings and don't maintain those fences very well at all, so of course people cross.

We had an Earth Day event there a couple of years ago, and because we were having the event, they started giving people tickets for going through their fence, which had been down for many years.

What can Transport Canada do to enforce this measure of safety?

Mr. Luc Bourdon: In terms of crossings, I think they're pretty much in good shape, I would say. When we test them, when we inspect them, usually they're pretty good. The crossing regulation will enhance that.

However, I would agree with you that from a trespassing standpoint it's been an issue. Fencing is an issue. They're constantly being cut and destroyed. In some high-risk areas, as I explained earlier, we will impose some slow orders. We will put the whistle back, which a lot of times will force the railway and the municipalities to sit together and decide to do something jointly.

The area where.... It's almost like there's a correlation between fences and trespassing. In some areas there are no fences because no one trespasses. In areas that are being fenced, there's constantly trespassing, as I said, because fences are constantly cut. It's a major problem.

Some areas in Canada, such as Canmore, are very well protected, with pedestrian crossings, with fences on both sides of the track, and yet they still have a high trespassing problem, even when all the protection is there.

We're doing our very best to control that. Eventually we hope to have an access control regulation that will help us to deal with that issue. But it remains a problem; I'll admit to that.

• (1000)

Ms. Olivia Chow: How often are the fences patrolled? I know that in the Toronto area, and I could name the area, the fences are just broken. Technically CN is obligated to fix it—it's their railroad—but they often don't do that at all. It's not that they don't have enough cash. I think the last time I checked, they had \$2 billion in profit or something of that nature, up 13%. They really don't do a good job maintaining the fence.

What can Transport Canada do? Is it more inspections, or tickets? Is it mandating the CN? They are already supposed to fix these fences.

Mr. Luc Bourdon: One of the things that was recognized through the Railway Safety Act was that we did not have enough people to handle that. We do now. We hired the last one, I think, a few months ago. So we will have more people to deal with that issue.

Plus, we now have more people to deal with education and awareness. A lot of times the issue with fencing is that when we perform an inspection, if we see there is a deficiency, we'll take action and advise the railway. If we see evidence that there's trespassing, we will impose measures on the railway. However, once we perform an inspection and the thing may have been fixed, with 72,000 kilometres of track, I mean, we will have our inspector going elsewhere, so there's always a probability that the fence.... I've seen fences cut within four hours after they were repaired.

Ms. Olivia Chow: Is there a public complaint phone number that you can make available, highlighted on the Transport Canada website, so that people know they can make a public complaint?

Rather than you having to send people out all the time, the citizens can be the eyes and ears for you. I made this kind of a recommendation in the immigration system. So when there are crooked consultants, people can report it, and it was then highlighted. And it was quite useful.

Do we have the same system in Transport Canada?

Mr. Luc Bourdon: Yes. We had a 1-800 number with Transport Canada, with rail safety, where people could report everything they had seen. I will have to check. It's currently being revamped, because there are too many of these numbers right now, and people were—

Ms. Olivia Chow: I'm confused about which number, though. Can you let us know?

Mr. Luc Bourdon: Yes. It will be on our website and it'll be one number. We used to have one, as I said, but they just did a survey and there were several of them at Transport Canada. Other branches were getting complaints from rail; we were getting complaints from other branches. We're just trying to streamline that. But people can always file a formal complaint with us by e-mail.

We investigate 100% of the complaints we get, regardless of how frivolous they may appear. We always send someone out there, because they're not frivolous for these people.

Ms. Olivia Chow: If you could send that to the committee members, through the chair, it would be helpful. Because you're right, there are several routes, and if you could tell us which route is the best, that would be very helpful.

[Translation]

The Chair: Mr. Coderre, you have the floor.

Hon. Denis Coderre: Mr. Chair, I would like to continue on the issue of ministerial authority. It means that the minister can, as he wishes, address a situation thanks to his discretion under Bill S-4. The bill gives additional powers to the minister.

Mr. Luc Bourdon: Yes, and several of these powers will be delegated directly to inspectors in the field.

Hon. Denis Coderre: So the authority is delegated.

Mr. Luc Bourdon: Yes.

Hon. Denis Coderre: The inspector acts on behalf of the minister.

Mr. Luc Bourdon: Yes, the authority is delegated to the inspector by the minister.

Hon. Denis Coderre: And not just for remedial measures, but also for prevention.

Mr. Luc Bourdon: Absolutely.

Hon. Denis Coderre: If the minister notices something, one can approach him directly and he has the power to act immediately.

Mr. Luc Bourdon: The bill grants many powers to the minister. No power is granted to the director general. Powers are granted through a delegation instrument.

Hon. Denis Coderre: However, the minister can delegate his power to you.

Mr. Luc Bourdon: Yes, as is the case now.

Hon. Denis Coderre: Concretely, does the bill grant the minister all the necessary powers to act and react in matters related to railway safety?

Mr. Luc Bourdon: I think so.

Hon. Denis Coderre: Is there something else that we need?

Mr. Luc Bourdon: I don't think so. When we worked on this bill, we tried to include everything that was missing. It is a very good bill.

Hon. Denis Coderre: Thank you, Mr. Chair.

[English]

The Chair: Mr. Holder, your final comments.

● (1005)

Mr. Ed Holder: Thank you, Chair. This gives me the opportunity, if I may, to welcome Mr. Aubin properly.

I promise that you will always be treated very well by this side of the committee room—always.

[Translation]

You are always welcome.

[English]

Mr. Bourdon, I just want to clarify one thing that you said earlier in your testimony. I want to clarify it because it was said at the very beginning, and I'm not sure it's what I think you meant to say.

Several questions came to you about positive train control. My sense was that you indicated you did not feel that the investment was favourable; that is to say, you do not believe it was a good investment. When you were asked about the ratio, you said it was a 21:1 savings—I think you used the word “savings”. I'm not sure you meant that. Could I ask you to clarify? When you said 21:1, what exactly did you mean by that, please, just for the purpose of clarity?

Mr. Luc Bourdon: The cost-benefit ratio. In other words, it's \$21 of investment for \$1 of saving.

Mr. Ed Holder: Would you suggest that that is a good investment?

Mr. Luc Bourdon: No. I don't think so.

Mr. Ed Holder: Not at all?

Mr. Luc Bourdon: From a financial standpoint, it may not be. From a safety standpoint, it would obviously prevent some of the collisions. I would be lying to say that it wouldn't.

However, at this time, as I've explained, we're looking at what the United States is doing. They're having some serious issues. Once these issues are worked out...and perhaps we're not going to talk about a cost-benefit ratio of 21:1; maybe it will be something a bit more acceptable.

We would also have to measure the impact on the short lines. If you impose that on CN and CP and VIA, what are you going to do with the short lines operating on federal tracks?

Mr. Ed Holder: So to be clear then, you were not saying that the 21:1 ratio was a savings issue. You were talking about the cost-benefit.

Mr. Luc Bourdon: It's not the savings; it's cost-benefit.

Mr. Ed Holder: I appreciate that clarity.

It was interesting to hear Minister Lebel say earlier that the amendments here are intended to establish improved accountability of railways. I was looking at some of the amendment details, and part of the amended act is intended to strengthen the department's enforcement powers, and there are various monetary penalties and judicial penalties for non-compliance.

Do you think the penalties for non-compliance will be sufficient when applied to compel changes of attitudes, if necessary?

Mr. Luc Bourdon: I think so. When we looked into it, we looked at other modes, and we had their experience in the application of those administrative monetary penalties. As I explained, it's going to be a maximum of \$50,000 for an individual and \$250,000 for a company, so it's kind of large.

And we can always prosecute. If you look at the judicial penalties, for instance, on summary conviction, for a company it goes from \$100,000 in the current Railway Safety Act to \$500,000 in Bill S-4, and for an individual it goes from \$5,000 to \$25,000 on summary conviction. On indictment, for an individual it goes from \$10,000 to \$50,000, and for a company it goes from \$200,000 to \$1 million. That's per day of non-compliance, so it's pretty significant.

Mr. Ed Holder: So it is not insignificant, then?

Mr. Luc Bourdon: No. It's pretty significant.

Mr. Ed Holder: Well, appreciating that the whole principle behind this is safety—

Mr. Luc Bourdon: Yes.

Mr. Ed Holder: —I applaud those initiatives if that helps to change attitudes. Let's hope it does.

Mr. Luc Bourdon: Plus, if you look at it historically, since 1997 we've only prosecuted the railways 13 times. It's very costly. It's time-consuming. Sometimes at the end of the day what's being imposed on the railway is not much, so the administrative monetary penalties will speed up the process. It's going to be a lot easier to apply and—

Mr. Ed Holder: As a point of clarification on the penalties, where does the money go?

Mr. Luc Bourdon: It's going to be administered according to the Financial Administration Act. Once it gets there, I don't know. It's not coming to us; that I know.

Mr. Ed Holder: Thank you for the clarity, and thank you for being our guest today.

Thank you, Chair.

The Chair: Thank you.

Seeing no further questions, I'll thank you, Monsieur Bourdon, for being here and for being frank and honest with us. We appreciate it.

Mr. Luc Bourdon: Thank you.

The Chair: I'm going to ask the committee members to stay here. We have to make a change in the orders so we can nominate a new member from the NDP as vice-chair. In order to do that, I will turn it over to Alexandre. He has to run the meeting.

The Clerk of the Committee (Mr. Alexandre Roger): We will now proceed to the election of first vice-chair. Pursuant to Standing

Order 106(2), the first vice-chair must be a member of the official opposition.

I'm now prepared to receive motions for first vice-chair.

Mr. Watson.

• (1010)

Mr. Jeff Watson: Thank you.

I would like to nominate Ms. Chow for the position of first vice-chair.

Mr. Ed Holder: I like Mike—

Voices: Oh, oh!

Mr. Jeff Watson: Regardless of what Mr. Holder is saying—

The Chair: I will advise members that we are on TV.

Please go ahead.

The Clerk: It has been moved by Mr. Watson that Ms. Chow be elected first vice-chair of the committee. Are there any other motions?

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

The Clerk: I declare the motion carried. Ms. Chow has been duly elected first vice-chair of the committee.

[Applause]

The Chair: Thank you.

Before we go in camera, we'll hear from Monsieur Coderre.

[Translation]

Hon. Denis Coderre: Mr. Chair, I would like to make a suggestion. Since we have already worked on this bill and since I do not think—I imagine that it will be the same for the NDP—that we will have any amendments, I don't see why we would hold another meeting to do the clause-by-clause study of this bill. I suggest that we support this bill immediately and that it be sent back to the House immediately; that way, we can move on to other bills. If it is the wish of my colleagues, I think that we should immediately support Bill S-4 and send it back to the House in order to move on immediately to our other business.

[English]

The Chair: Ms. Chow.

Ms. Olivia Chow: I am fine with that in principle, but I understand that you have invited the Railway Association of Canada to appear on Thursday. To disinvite them might be a bit rude.

The Chair: I will clarify that. The Railway Association said they couldn't be here on Thursday, so it's plausible that we could do this today.

Ms. Olivia Chow: Okay. Then I have absolutely no problem with proceeding today.

The Chair: Mr. Watson.

Mr. Jeff Watson: We're happy to proceed in that fashion.

The Chair: Okay.

We've invited a legislative clerk to come here. He's on his way, so maybe we'll take a two-minute break.

Touch up your water and we'll come back and finish this.

• (1010) _____ (Pause) _____

• (1015)

The Chair: Okay, we are back.

Mr. Coderre has proposed that we do this as swiftly as possible.

Clause 1 is obviously postponed until the end, so I am going to ask if clauses 2 through 45 carry.

(Clauses 2 to 45 inclusive agreed to)

The Chair: Shall clause 1 carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: With that, we have the completion of Bill S-4. Congratulations.

Mr. Watson.

• (1020)

Mr. Jeff Watson: If I may, I will just briefly thank Mr. Coderre and the other members of the opposition for their good spirit of cooperation in this regard.

An hon. member: Hear, hear!

The Chair: Thank you.

I will thank our legislative clerk for coming here as quickly as she did to help us proceed.

We are now going to end today's business, but we do have a subcommittee meeting immediately following just to plan future business.

Has anyone any comment before that? If not, I will adjourn this meeting.

The meeting is adjourned.

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