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# **Standing Committee on Transport, Infrastructure and Communities**

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**EVIDENCE**

**Thursday, March 26, 2015**

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**Chair**

**Mr. Larry Miller**



## Standing Committee on Transport, Infrastructure and Communities

Thursday, March 26, 2015

• (1530)

[Translation]

**The Vice-Chair (Mr. Hoang Mai (Brossard—La Prairie, NDP)):** Good afternoon, colleagues. Welcome to the 50th meeting of the Standing Committee on Transport, Infrastructure and Communities. We are considering Bill C-627, An Act to amend the Railway Safety Act (safety of persons and property).

From the Federation of Canadian Municipalities, we have with us Pauline Quinlan and Daniel Rubinstein.

[English]

We also have with us, from the Railway Association of Canada, Michael Bourque, and from Teamsters Canada, Phil Benson.

[Translation]

The witnesses will have 10 minutes for their presentations.

I give the floor to Ms. Quinlan, from the Federation of Canadian Municipalities.

**Ms. Pauline Quinlan (Co-Chair, National Municipal Rail Safety Working Group, Mayor, City of Bromont, Federation of Canadian Municipalities):** Thank you, Mr. Chair.

[English]

Good afternoon and thank you, Mr. Chair, for your introduction. Thank you to the committee members for extending an invitation to the Federation of Canadian Municipalities to participate in your study of Bill C-627, an act to amend the Railway Safety Act, safety of persons and property. FCM last appeared before the committee in May 2014, as part of your study on safety management systems and the transportation of dangerous goods, and we are pleased to be here again.

[Translation]

I am the mayor of the City of Bromont, Quebec, and chair of the Quebec caucus of the Federation of Canadian Municipalities. I am happy to be here today to represent the Federation of Canadian Municipalities as the co-chair of the FCM's National Municipal Rail Safety Working Group.

The National Municipal Rail Safety Working Group, which I co-chair, was created in the wake of the catastrophe that devastated the town of Lac-Mégantic in 2013.

The group's work is guided by the following three principles: equipping and supporting municipal first responders to rail emergencies, ensuring that federal and industry policies and regulations address the rail safety concerns of municipalities, and

preventing the downloading of rail safety and emergency response costs to municipal taxpayers.

I am joined today by Daniel Rubinstein, Manager of Policy and Research at the Federation of Canadian Municipalities. He also handles issues related to rail safety.

The Federation of Canadian Municipalities represents 90% of Canada's population and about 2,000 municipalities from across the country. Our mission is to promote and protect the interests of all communities—small or big, urban or rural, central or remote—on issues related to policies and programs that fall under federal jurisdiction.

The federation raises various issues related to rail safety and actively participates in many rail safety initiatives. We are a member of the Transportation of Dangerous Goods General Policy Advisory Council, the Advisory Council on Railway Safety, as well as the emergency response task force. We are also working closely with Minister Raitt and Transport Canada officials on all those issues.

[English]

Before speaking about Bill C-627, I want to reiterate for committee members that FCM and the national municipal rail safety working group are guided by essential work undertaken by the Transportation Safety Board of Canada.

The TSB serves a critical function in terms of making safety recommendations to the federal government, and at FCM we believe the standard for progress is full implementation of TSB safety recommendations. My colleagues and I at FCM are pleased that the government's response to the TSB report into the tragedy in Lac-Mégantic has indeed been fulsome. We expect the same type of response once the TSB has had the opportunity to fully investigate the recent derailments in northern Ontario and make additional recommendations to government.

• (1535)

In terms of the focus of today's meeting, let me say a few words about Bill C-627. FCM fully supports any legislative measure that clarifies or enhances the ability of the Minister of Transport and Transport Canada officials to conduct robust oversight and enforcement of safety on Canada's federal railways. Bill C-627 does that just by clarifying that safe railway operations also includes the "safety of persons and property".

As was discussed at the committee's last meeting this past Tuesday, these provisions complement the enhanced oversight and enforcement powers contained in Bill C-52, the safe and accountable rail act, which was introduced by Minister Raitt last month.

Related to Bill C-627 is the issue of safety standards at railway-roadway level crossings, otherwise known as grade crossings. FCM is fully supportive of Transport Canada's new grade crossing regulations, which for the first time establish standards for sightlines, warning systems, and other key safety components at both new and existing crossings. These regulations respond to a long-standing recommendation from the TSB.

Over the next seven years, all existing grade crossings in Canada will need to be upgraded to the basic standards laid out in the regulations. Our members and federal railways are in the very early stages of sharing information with each other about existing crossings, which is the first step laid under the regulations. Information sharing must be completed by the end of 2016.

You can expect to hear more from the FCM about the need for additional federal funding for grade crossing improvements once we are able to assess the cost impact of meeting the new grade crossing regulations at existing crossings.

Shifting from rail safety to emergency planning and response, the national municipal rail safety working group has also been vocal about the need for shipments of flammable liquids to require detailed emergency response assistance plans, or ERAPs. ERAPs play a critical function in assisting local first responders in the event of a serious incident involving dangerous goods.

In April 2014 Transport Canada responded favourably to FCM's request, by expanding Transport Canada's ERAP requirements to shipments of crude oil, ethanol, gasoline, diesel, and aviation fuel. This regulatory change has provided municipalities with certainty that shippers of flammable liquids will provide specialized assistance when major incidents take place involving these products.

Also in April 2014 Minister Raitt established an emergency response task force with participation from key stakeholders, including FCM, to strengthen nationwide emergency response planning and training. The ERTF has a mandate to submit its recommendations later this year.

As I mentioned earlier in my remarks, in February Minister Raitt announced new legislation, Bill C-52, to improve rail safety and the transportation of dangerous goods in Canada. Key elements of Bill C-52 respond directly to concerns related to insurance and liability, information sharing, and Transport Canada's oversight of federal railways that were raised by FCM at our last appearance in May 2014.

These are a few examples of policy areas where proactive and ongoing collaboration between FCM and the federal government has resulted in concrete reforms that will improve the safety of Canada's railways and Canada's population.

•(1540)

That said, unfortunately our work is not yet done as derailments continue to occur. Again, we look to the TSB to provide Canadians with an analysis of the causes of recent derailments and

recommendations to further improve rail safety. We look to the government, the railway industry, and Parliament through this committee, to ensure that any recommendations are implemented in full.

In closing, FCM welcomes new measures to clarify and expand the oversight and enforcement powers of the minister and railway safety inspectors, including the amendments to the Railway Safety Act proposed in Bill C-627.

[Translation]

I want to thank the committee once again for giving us an opportunity to share our point of view.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Ms. Quinlan.

[English]

We will hear from Michael Bourque from the Railway Association of Canada.

You have 10 minutes.

**Mr. Michael Bourque (President and Chief Executive Officer, Railway Association of Canada):** Good afternoon, Mr. Chairman, and members of the committee. Thank you.

I want to begin by saying that safety is of the utmost importance to the railway industry. Our members are committed to safety and are constantly looking for ways to improve their performance whether it's through training, risk assessment, infrastructure investments, or technology.

Our industry also believes in working collaboratively with government, labour groups, municipalities, and other stakeholders on improving our safety performance. In the last 20 months especially, we've seen new train securement and operating practices, new tank car standards, and many other measures introduced, all of which will contribute to improving safety.

Crossing safety, which member of Parliament, Joyce Bateman, identified as the motivation behind Bill C-627, is also a pressing issue for our industry. There are currently more than 31,000 federally regulated grade crossings in Canada, and crossing accidents account for nearly 20% of all rail incidents in Canada. Sadly, a third of those incidents result in death or serious injury.

Crossing safety is an important issue, but I'm not sure Bill C-627 is the best way to tackle it. In fact, I'm questioning why we're discussing it today. As a number of committee members pointed out earlier this week, Bill C-52 will repeal key sections of this bill.

Our primary concern with Bill C-627 is that it may be redundant and it could create confusion. Section 4 of the current Railway Safety Act already states that “regard shall be had not only to the safety of persons and property transported by railways but also to the safety of other persons and other property” in determining whether railway operations are safe, or whether something constitutes a threat to safety.

In addition, under section 31 of the current Railway Safety Act, railway safety inspectors, on behalf of the Minister of Transport, already have the power to order a rail line or crossing to be closed, or the use of railway equipment to be stopped, if they deem it to be a threat to safety. However, it may well be that improvements to the act are required, and we certainly appreciate many of the crossing safety concerns that Ms. Bateman raised before this committee.

As a result of urban growth around railway operations, traffic has increased at existing crossings and additional crossings have been built to relieve road congestion across the country. Communities and city planners need to think about alternatives to creating new grade crossings, and what upgrades can be made to improve safety at existing crossings.

Although not specifically aimed at crossings, we're making some progress through our joint proximity initiative with the Federation of Canadian Municipalities, and we recently saw Montreal adopt our Guidelines for New Development in Proximity to Railway Operations as part its long-term development plan. Montreal was the first major urban centre to adopt the guidelines and we're hopeful that other cities will follow suit.

But more can be done. I'll read you a quote. I'm sorry, it's a little bit long, but bear with me.

In its report, the advisory panel for the Railway Safety Act review recommended that the 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.

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.

These comments were made by my predecessor, Cliff Mackay, to this committee during its review of the Railway Safety Act in 2012, and this is still our position today. Railways are required by law to notify municipalities of any proposed work. We would like to see the Railway Safety Act amended to require developers and municipalities to consult with railway companies prior to making decisions about land use that could affect railway safety.

• (1545)

Another way that we can tackle the issue of crossing safety is to review the existing regulatory approach for opening and closing rail crossings in Canada. Under the existing regime, Transport Canada

has the authority to close grade crossings after completing a risk analysis. Meanwhile, the Canadian Transportation Agency has the authority to open new crossings without having to assess public safety. This dichotomy of authority has jeopardized public safety and led to some counterproductive outcomes. In one case, the Canadian Transportation Agency ordered a railway to open a crossing after Transport Canada had ordered it permanently closed for safety reasons.

Furthermore, the number of crossing-related accidents has not decreased over the last decade. Since 2003, there have been more than 2,300 crossing-related accidents and 670 serious injuries and/or fatalities. As I mentioned earlier, 30% of the crossing-related accidents over the last five years have resulted in serious injury or fatality. The increasing number of level crossings, the increase in traffic moved by freight and passenger rail, as well as truck and automobile traffic suggest that crossing-related injuries and fatalities will continue to be a problem in the future if action is not taken. Recent government efforts to improve safety at grade crossings will help, but the best way to improve safety is to close more crossings.

Canada's grade crossings regulations came into effect last December 17. These regulations outline a series of improvements that must be made to grade crossings, including private crossings. Short line railways alone expect that they will invest somewhere in the order of \$85 million to meet these regulatory requirements, and the estimate at the time of regulation was a cost of about half a billion dollars to the industry to meet these regulations.

There is also the issue of private crossings. We have many instances where private roads crossing over rail lines are used by one or more landowners, and where there is no crossing agreement. In these situations, railways advise users of the crossing of the need for a crossing agreement, setting out terms of use for construction and maintenance. But in many cases, users are unwilling to enter into these agreements, especially when crossing upgrades are necessary.

Section 103 of the Canada Transportation Act deals with the situation in which the railway company and the landowner adjoining the railway disagree on the suitability or maintenance of a private crossing. Currently, section 103 only permits the landowner to apply to the agency for the resolution of a dispute. There is no comparable right given to the railway company. We believe that, in the interest of safety, railways should have the equal right to apply to the agency under section 103.

The government also recently made changes to its grade crossing improvement program. Transport Canada has considerably reduced the amount that it will contribute towards grade crossing improvements. Transport Canada used to cover 80% of the cost of a grade crossing and now only covers 50%. Under the current funding formula, railways are expected to absorb almost 40% of the cost of these upgrades. Furthermore, we are told that compliance with the new regulations will not be an accepted reason for applying for funds under the grade crossing improvement program, and that these funds are not available to provincially regulated railways, which must nevertheless comply with the regulations.

When Joyce Bateman was testifying to this committee the other day, I noticed that what started as an issue of safety quickly morphed into an issue of convenience. I understand it is difficult when constituents call and complain about waiting at a railway crossing for 15 or 20 minutes, but let's consider the alternative.

Earlier this week, Jim Vena, from CN, mentioned that it's not unusual to have trains that are over 150 cars long. One hundred and fifty railcars is the equivalent of about 375 tractor trailers that would otherwise be on our roads. Without rail service, we would have more congestion, more pollution, less safety, and more greenhouse gases. Rail is about 20 times more efficient than trucks in terms of greenhouse gas emissions' intensity, and let's not forget about the economic argument. Railways need to maintain velocity and fluidity on their tracks in order to deliver high levels of service to their customers. When an accident occurs, the whole network gets clogged.

The rail industry is currently operating under a quota for grain. Last year's enormous grain crop was 20 million metric tonnes larger than the average crop. This 20 million metric tonnes required around 2,000 trains, each with 100 cars, to move it to port; then they had to return.

• (1550)

We need rail to move the economy, so before we start making small steps that we think may solve a specific problem, let's make sure we are not further hindering our ability to enable the competitiveness of our customers and the economy in this globally competitive world.

Thank you very much.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Bourque.

I forgot to mention before that we also have Mr. Don Ashley from Teamsters Canada.

Mr. Benson and Mr. Ashley.

**Mr. Phil Benson (Lobbyist, Teamsters Canada):** Thank you, Mr. Chair.

I'm a lobbyist for Teamsters Canada and with me is Mr. Don Ashley. He's the national legislative director for the Teamsters Canada Rail Conference. I'll be dealing with some background issues and Mr. Ashley will be dealing with the bill itself.

Just to start, the Teamsters Canada Rail Conference represents the running trades, main lines and most of the short lines. With other components of teamsters divisions, we represent approximately 65% of rail labour.

I want to thank you for having me before the committee. In case this is the last time we get to come here during this Parliamentary lifespan, I'd like to thank the members present and past for their courtesy and for all their hard work. I think we've achieved a lot. We still have a lot to do, but I do want to thank you. If we have a chance to come back, that's great. If we don't, again, thank you very much.

As background, of course, we've seen recently that we have derailments and we have track issues with CPC-1232 cars. Previously, before the committee, we raised our concerns about the CPC-1232 cars, about whether they were actually suitable and if they would work. As we know, from the Gogama tragedy and elsewhere close to tragedy, there seem to be severe problems with them. Similarly, we all have concerns about the new 1711s.

The other issue that is a great concern to me is the movement of dilbit. After Lac-Mégantic and that tragedy—and our prayers and concerns still go out to the families there, that's going to be a long healing process—the issue of dilbit was not a concern from the experts that I attended meetings with, and I certainly attend a lot of them. The issue was shale oil. Clearly, after the Gogama accident, that region and track, that whole dilbit issue and synbit has to be reviewed again. I know it will be in upcoming meetings going forward, but that was a great surprise to me. It's not something that I expected.

Of course, we have Bill C-52.

The other thing we have been very busy with—you can see my stack of notes—is the safety management system regulations that will be in effect on April 1. We have been very busy over the last three weeks to a month being briefed on the bill, on the safety management systems, the processes, the updates, when it's going to happen. To be honest, there are parts we're confused about, parts we're disappointed with, and other parts we're quite pleased with.

One issue that's quite interesting for us is one of the issues that was raised before the committee during the Railway Safety Act amendments. That was the direct line from workers to Transport Canada rail safety, a 1-800 number to report safety issues. I'll ask you as I did last time, where's our 1-800 number? It seems to have not quite vanished, but I do not understand why it's a particular problem to set up a 1-800 number.

It's our position, as a matter of policy, that we do not support private members' bills on areas of transport and the Transportation Act unless the subject matter is tangential to the overall safety scheme. I think Bill C-52 really proves our point on that issue.

That being said, we want to thank Ms. Bateman for bringing it because obviously she had concerns. We would have supported the bill in a way because we did not find it particularly offensive in part. It is important for members to bring forward private members' bills. I'm not discouraging members to do it. However, quite often, acts like the Transportation Act are quite complex and it's very hard to just take out one little section without realizing there are a lot of other implications.

With that, I'll pass it over to Mr. Ashley to deal with the bill.

• (1555)

**Mr. Don Ashley (National Legislative Director, Teamsters Canada Rail Conference, Teamsters Canada):** Thank you, and thank you for having us here.

When it comes to the bill itself, we are fully supportive of anything that improves rail safety and gives the minister more regulatory impact on improving rail safety.

When it comes to crossing incidents, it's very impacting on our membership. The devastating effects that the public and the community see with these crossing accidents also deeply impacts our members and their families, and they're lasting affects. One of our highest areas of injury are critical incidents from these crossing accidents. Again, anything that can be done to improve that area would be supported by Teamsters Canada.

With the bill itself, the language is good. When it comes to the changes to sections 31 and 32 of the Railway Safety Act, we prefer the language in Bill C-52. Whether this bill gets picked up and the proposed change to section 9 gets moved to Bill C-52 or you amend this bill with the language from Bill C-52 in regard to sections 31 and 32, we would support either one of those alternatives.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Teamsters Canada.

[Translation]

We will now go to questions from committee members.

Mr. Toone, the floor is yours. You have seven minutes.

**Mr. Philip Toone (Gaspésie—Îles-de-la-Madeleine, NDP):** Thank you, Mr. Chair.

I want to thank the witnesses for their presentations. They were most interesting.

I think the bill deserves even more attention. Everyone has brought up the fact that another bill is also under consideration. It's a

bit difficult to see what the impact of this legislation will be on Bill C-52. It will make the discussion a bit more complex.

Be that as it may, we are discussing Bill C-627 today, and I will try to focus on that.

I would like to start with Ms. Quinlan.

**Ms. Pauline Quinlan:** My last name is Quinlan.

**Mr. Philip Toone:** I think an "n" was missing.

**Ms. Pauline Quinlan:** Yes, unfortunately.

**Mr. Philip Toone:** What is the actual relationship between municipalities and railway companies when it comes to grade crossings? I am trying to understand that. Is any funding provided for grade crossings? Do railway companies give money to municipalities? Do municipalities have to pay rent? Who is in charge of all that, and how does the funding flow?

**Ms. Pauline Quinlan:** Municipalities have to help maintain grade crossings. Once again, I assume that depends on the province in question. I can tell you that at home, in Quebec, particularly in Bromont, the railway that passes through the city also goes through Lac-Mégantic. So it's the same line. Yes, actually, we do contribute annually to the maintenance of grade crossings.

• (1600)

**Mr. Philip Toone:** So the responsibility—

[English]

**The Vice-Chair (Mr. Hoang Mai):** Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** I didn't want to interrupt the member's first question and answer and I don't want my intervention to interrupt his cumulative time. I think I heard you say seven minutes, but I think I heard interpretation say five minutes. I just wanted it to be clear that the member has seven minutes for questions and answers.

**The Vice-Chair (Mr. Hoang Mai):** To clarify, the first round is seven minutes each, so the member has seven minutes.

[Translation]

**Mr. Philip Toone:** Thank you, Mr. Chair. I will continue.

In that case, the responsibility belongs to municipalities and not to railway companies. If an accident was to occur, who would be accountable?

**Ms. Pauline Quinlan:** The railway company would be. Of course, we work together.

Mr. Rubinstein will be able to add to my answer in a moment, but we are currently partners. One of the organizations we working with to find solutions to improve safety is the Railway Association of Canada. Although we are not responsible for railway traffic, we are still responsible for the safety of those who live in our cities and municipalities.

Daniel could perhaps complete my answer by providing information on the specific work we are doing with the Railway Association of Canada.

[English]

**Mr. Daniel Rubinstein (Manager, Policy and Research, Policy and Government Relations, Federation of Canadian Municipalities):** Very quickly, for federally regulated railways, there are grade crossing regulations that were passed last year. They set out the rules and responsibilities of municipalities as road authorities and federal railways. That includes requirements for information sharing. Each party has different obligations.

When it comes to cost, these are determined through the parties, but the Canadian Transportation Agency can make determinations as well on how those costs are shared.

[Translation]

**Mr. Philip Toone:** If I understand correctly, this bill covers only the rail lines that come under federal jurisdiction?

**Ms. Pauline Quinlan:** Yes.

**Mr. Philip Toone:** Even so, a number of railways in Quebec and elsewhere come under provincial jurisdiction. Am I right to understand that this bill will have no impact on those railways?

**Ms. Pauline Quinlan:** Perhaps Daniel could say something about that.

[English]

**Mr. Daniel Rubinstein:** As I understand it, this bill deals with federal railways that are under the jurisdiction of the Railway Safety Act.

[Translation]

**Mr. Philip Toone:** Do you know what percentage of those railways are in Quebec?

You represent the Federation of Canadian Municipalities, so I will talk about Canada. What percentage of railways in Canada come under provincial jurisdiction? Do you know what that percentage might be?

**Ms. Pauline Quinlan:** Daniel may have information about that, but I believe the percentage is low. In Quebec, the railways under provincial jurisdiction account for a small percentage. Of course, major companies such as CN, CP or, in our case, Montreal, Maine & Atlantic Railway, are federally regulated. There are railways that come under provincial jurisdiction in some regions of Quebec, but I think they are few in number.

**Mr. Philip Toone:** Many changes have recently been made to rail safety regulations, especially since the Lac-Mégantic accident. I often hear that the relations between railway companies and municipalities are sometimes strained. Is enough focus being placed on providing workers with training and adequate support? You

talked about first responders. Are they properly equipped to handle emergencies and disasters that sometimes occur?

**Ms. Pauline Quinlan:** I think that, since the disaster we are talking about and since we began working on the issue, communication between railway companies and municipalities has improved considerably. I think that large companies always have a more structured approach.

As for smaller companies, we have met with representatives of Central Maine & Quebec Railway, which is the new company now managing rail transportation in one part of Quebec. The company has shown a willingness to work with us.

I should still point out that our emergency workers could never respond locally. We need contribution, cooperation and the response plan the companies are responsible for, along with, of course, the information at our disposal and our local emergency response plans.

● (1605)

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Toone.

[English]

Mr. Vaughan, you have seven minutes.

**Mr. Adam Vaughan (Trinity—Spadina, Lib.):** My question, first and foremost, is for the railway companies. Are you aware of any federal programs that pay for the transformation of railway crossings to become grade separated?

**Mr. Michael Bourque:** Federally, there is a grade crossing improvement program. That money is available to municipalities and railways to apply for an improvement, which could be grade separation.

There are two problems with the program. The biggest one is this problem, that I mentioned a moment ago, where the Canadian Transportation Agency has the right to open a crossing. They do so on an economic basis. They don't have a safety basis, and therefore, it is really not that difficult to open a new crossing. Transport Canada has the role of closing crossings on a safety basis.

Typically, if you're going to invest in an overpass and spend \$25 million on an overpass. For the railway to be motivated to contribute to that, they would want to close crossings within the vicinity, so that there are fewer chances for accidents on the railway and the investment's made so that traffic goes over the overpass, or the underpass. However, because it's too easy, you might make that investment but then the municipality can apply for a crossing down the road. It's too easy to do that.

In my opinion, it's a machinery of government issue. It's a historical mistake where the agency has the role of opening new crossings. I don't think that previous policy-makers realized how many new crossings would be opened and did not appreciate the safety impact of that.

I think we need to make that change. We've actually suggested that to Mr. Emerson, who's conducting the review of the act right now.

**Mr. Adam Vaughan:** To Madam Quinlan, the program that was just identified, how many rail crossings are fixed as a result of this funding on an annual basis? Is the FCM tracking the number of rail crossings that are funded by federal dollars?

[Translation]

**Ms. Pauline Quinlan:** I will ask Mr. Rubinstein to answer, as he has more details on those issues.

[English]

**Mr. Daniel Rubinstein:** Transport Canada is tracking the way that the program is used. It's a \$10 million-a-year program. Now that we have new grade crossing regulations, it will set a standard for the kinds of safety improvements that need to happen. We know that kind of allocation over time is just not going to be enough to improve crossing safety.

**Mr. Adam Vaughan:** For \$10 million a year.

**Mr. Daniel Rubinstein:** Yes, \$10 million a year.

**Mr. Adam Vaughan:** A grade crossing in Toronto, certainly the last one that was built in my riding was in the neighbourhood of about \$80 million.

**Mr. Daniel Rubinstein:** Again, there are crossing improvements at existing crossings that are required by the grade crossing regulations that we mentioned, and then there's a separate issue of grade separations, which, you're right, can have more significant financial implications. But under the new regulations all municipalities and railways will have to work together to make improvements. Within the next seven years we're talking about over 15,000 crossings, so it's a significant issue.

**Mr. Adam Vaughan:** Fifteen thousand—

**Mr. Daniel Rubinstein:** Fifteen thousand level crossings.

**Mr. Adam Vaughan:** —at \$10 million a year.

**Mr. Daniel Rubinstein:** This is the point we're making. Over time we will likely need additional assistance to meet the impact of those regulations. As Madam Quinlan said in her opening remarks, that's something we're looking at with our members to fully understand what the cost impact is of these regulations going forward.

**Mr. Adam Vaughan:** When this issue is raised in the House quite often the Minister of Transport stands up and says that the FCM supports everything the federal government is doing and cites an FCM resolution that basically says it's satisfied and no further action is necessary. Is that in fact the FCM's position or does the FCM have a different position?

[Translation]

**Ms. Pauline Quinlan:** We have been very involved in the discussions with the minister and Transport Canada. We think that real progress has been made, but the FCM's position is that the work

is not complete and that we have to continue trying to find even more solutions that ensure safety, of course, but that also allow railway transport to continue to contribute to the country's economy. That's the position we have adopted. We believe that some improvements have definitely come from working together, but we remain critical in that regard. We are holding discussions and asking our staff to take note of new proposals. So we are doing some collaborative work on this issue.

• (1610)

[English]

**Mr. Adam Vaughan:** But it's fair to say that the FCM is not satisfied that the work is complete, nor is it satisfied that all that can be done to make rail safety safe in communities has been accomplished by the current regulations that have been tabled.

[Translation]

**Ms. Pauline Quinlan:** It's a start, but I think we have to continue working on that.

Funding was also brought up earlier. The Federation of Canadian Municipalities will definitely continue to represent its members and to ask that any responsibilities to be assigned to municipalities be part of the calculations. Safety is of the utmost importance to us, but the ability to respond will also have to be looked at. As I am sure you know, municipalities do have limited means. That will also be covered in future discussions.

[English]

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Vaughan.

Mr. Komarnicki, you have seven minutes.

**Mr. Ed Komarnicki (Souris—Moose Mountain, CPC):** Thank you, Chair. Certainly the discussion here has been far-ranging and wide with some big general areas of concern that have little to do with the bill. It was good to hear Mr. Ashley actually focus on the bill. I do know that there are obviously land development issues that need to be tackled by cities and rural municipalities, urban municipalities, and that's a fact. You see development taking place right next to railway, and railway crossings is an issue for sure. Certainly just grade crossings across the country, there are many of them.

The complaints I hear a lot of the time are that it takes the trains too long to cross, or they park, or they're not well seen especially at night and there needs to be improvements in the crossings to make the general public aware of the danger, and so on. There's a fund for that. But those are all things that municipalities apply for and over time some get upgraded, year by year. Generally it's made safer.

But this particular bill relates to a very specific enactment that talks primarily about improving public safety by providing authority to issue orders if railway work or a railway operation poses a threat to the safety of persons or property. It would suggest to me that this bill is dealing very specifically with something that is of apparent and immediate concern that needs attention.

When you look at that, it seems to suggest two things.

It suggests that if a railway safety inspector is of the opinion that the standard of construction or maintenance, so how it's constructed, how it's maintained, or where in the operation of a line work or railway equipment something there threatens the safety or security of the operations or of a person or property, some actions may be taken and an order issued. The minister here is specifically provided with the authority to require the person responsible for railway operations to order the person to take necessary corrective measures. That's really focusing in on what this is all about.

It's one thing to open and close a crossing, but this I think goes beyond that. It says that if you find an imminent concern or danger, you need to act. There needs to be the authority to compel someone to do something. Wouldn't you agree that's what this is all about and that in fact it's good to have the extra authority to order these kinds of things to be done?

Perhaps Mr. Benson or Mr. Bourque....

• (1615)

**Mr. Michael Bourque:** For our part, I don't disagree with what you've said. Our position is essentially that the act already provides that authority. If the government believes that this authority is not strong enough and they want to strengthen the language in the new act, which is going to supersede this private member's bill, then there's probably a good reason for it. We're not going to object. We do think that the way it's written in Bill C-627 causes a little bit of confusion because we already believe, as I mentioned, that under section 31 railway safety inspectors on behalf of the minister currently have the power to order a rail line to be closed or the use of equipment to be stopped if there is an imminent threat to safety. That's our interpretation of the bill.

**Mr. Ed Komarnicki:** Fair enough. Whether this bill gets subsumed in the other one or this one clarifies the other one or adds it to it, in principle it is obviously a positive step. It goes beyond just opening or closing. It goes towards proactive action or particular steps ordered to be taken to rectify the situation.

**Mr. Michael Bourque:** The reason that in my remarks today I went beyond Bill C-627 is precisely because I think there are a number of proactive steps that legislators can take with respect to crossing safety. There are a number of very important changes that need to be made if we're going to improve crossing safety in this country. The TSB has already pointed out that we have not reduced the amount of accidents at crossings over the last 10 years. We have essentially plateaued. If we're going to make those kinds of safety improvements, we have to look at closing crossings, at changing the governance on opening and closing, and so on.

**Mr. Ed Komarnicki:** Fair enough, but when you're looking at, as you said, 31,000 grade crossings, where 30% of the accidents or one-third end in death or serious harm or injury, if you can take a specific action on what is obviously an imminent danger and resolve that,

isn't that a positive thing? Wouldn't you agree that taking steps like ordering trains to reduce speed, for a piece of equipment to be fixed while that's happening, or for a track to be repaired, some positive actions taken by the rail company as opposed to anyone else, are indeed positive steps?

I'll come back to Mr. Benson. I think Mr. Bourque wants to speak.

**Mr. Michael Bourque:** Look, it's very hard to disagree with what you've just said. But in the context of my remarks, what I was suggesting is that, first of all, let's not forget that in stopping the flow of traffic on the railways, it's one thing to do that temporarily while you fix a problem. Railways do that every single day. But it's another thing to do that and hamper the ability to move goods by rail, because now you're going to move all of that onto trucks.

**Mr. Ed Komarnicki:** Mr. Benson, do you have a point? Then I want to ask Ms. Quinlan a question.

**Mr. Phil Benson:** Yes, I agree with your comments. In fact, notwithstanding our comments about not supporting private members' bills, as Mr. Ashley said, we support any improvement. We thought even Bill C-627 as written was an improvement.

But there's a question on crossings accidents. I think one thing that's a little misleading about crossings accidents and just putting a number and total to them, is that really the largest subsection of deaths are suicides. I don't know how we're going to prevent that. Second, I think Mr. Bourque would agree, is trespassers. There are people who are wilfully trespassing. It isn't a problem with the crossing grading.

Sometimes when we look at these issues, if we understand that there's a whole chunk of them that we are not going to solve ever—

**Mr. Ed Komarnicki:** The point is, how are you going to resolve those if you can't—

**Mr. Phil Benson:** What I'm saying is that if this bill were to include "imminent danger" it would be better. Our confusion is dealing with Bill C-52, where we think the minister's proposals are more fulsome. That's why we're suggesting to perhaps incorporate them into this bill, pass it, and at least we can get that part of it done before the end of the session.

I congratulate Ms. Bateman for bringing it.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Komarnicki.

Now to Mr. Yurdiga, and he can, if he wants, give some of his time to you.

Go ahead, Mr. Yurdiga.

• (1620)

**Mr. David Yurdiga (Fort McMurray—Athabasca, CPC):** Do you want a few minutes?

**Mr. Ed Komarnicki:** I do have a question for Ms. Quinlan.

You mentioned there were a number of incidents where there have been issues regarding the safe operation of tracks. Have you had any incidents in particular that you're aware of where you found situations or your members have found situations where the rail company hasn't reacted as quickly as you would have liked, or reacted in a manner that your constituents or your members would have liked to see happen, and where you might have wanted to see some ministerial authority to make it happen?

[Translation]

**Ms. Pauline Quinlan:** I will give you an example that involves grade crossings.

In some municipalities, it is difficult to provide emergency services to the public when grade crossings are obstructed for long periods of time. Our federation is very conscious of that problem. I think the situation has to be improved. I understand that there has to be traffic and that rail transportation may be preferable to trucking. However, problems really arise when a city is split into two and, for instance, a major fire breaks out on one side and emergency calls cannot be responded to.

I don't know whether that is the sort of thing you wanted to hear, but it's the kind of example that keeps us working with various bodies to improve things. Of course, we will also work with railway companies.

[English]

**The Vice-Chair (Mr. Hoang Mai):** Mr. Yurdiga.

**Mr. David Yurdiga:** Thank you, Mr. Chair, and to the witnesses for being here today.

We are talking about safety. Everybody agrees safety is a very important aspect of our daily lives, whether it's rail, highways. Whatever it is, safety is a big concern, and I really appreciate the bill's coming forward. We have to ensure it's safe for our children, our wives, our family members.

My first question is to Mr. Bourque. What I'm struggling is what makes it unsafe. Is it the expansion of urban centres, getting larger? When does a rail crossing or grade crossing get to the point where it becomes unsafe? Is it the lighting, the expansion of the city or community? I don't know where the line is. Is there any documentation stating that this crossing is good for so many crossings a day? Is there anything mandated in legislation or is it something mandated by CN or the municipality?

**Mr. Michael Bourque:** Let me try to answer the first part of your question first.

This really is an all-of-society type of problem. We have grown as a country. We've grown for the most part in the southern part of the country. We've grown along the railway lines that we built to build

the country. As we've done that, and as railways have become more and more important to moving all the goods we produce, we've increased the traffic on the rail lines. Through various efficiencies and investments railways have gotten faster. For example, just the fact that we have welded track means that railways go faster and they don't make as much noise. If you're trespassing and you're wearing your iPod and you think you're going to hear a "ka-chunk" and a steam train is going to be coming slowly, you're wrong. They are going very fast. VIA Rail trains go a hundred miles an hour sometimes.

We've created a highway system on rail and we still treat it as though it's a back road. We allow everybody to have their own driveway over the tracks. We see development that just doesn't make any sense. We have dozens of examples of a municipality with a school on one side of the track and then under their zoning they allow a McDonald's right across the tracks. What do you think the kids are going to do all day? They're going to cross the tracks and go to McDonald's.

We have to think what we are going to do as a society. We need this corridor to deliver goods and increasingly deliver passengers, and safety is a huge concern. Today I've outlined some of the remedies I think we need to work on. The railways certainly are willing to participate. Railways pay for crossings. They contribute when there is a grade crossing improvement, when there's an overpass, when there's a problem with railway safety. The example given the other day was a motorized wheelchair that got stuck on the tracks. Quite frankly, the railway should fix that so this can be done safely. But this is an all-of-society problem.

To answer the second part of your question, there are rules with respect to fire, for example. Currently, if there's a fire and you have a train blocking the crossing, you're obligated to break up that train and clear the crossing. There are other remedies as well. We have municipalities with access to dispatch so they can know when the train is coming and the 911 folks can tell the ambulance or fire truck to go to another crossing because they know there's a train there.

• (1625)

**Mr. David Yurdiga:** Thank you for that.

Are the railway companies involved in the development process in communities? If municipalities are expanding subdivisions, do they ever ask for your opinion and how it's going to affect your business model?

**Mr. Michael Bourque:** It varies by community. I would echo the comments made by Madam Quinlan that I think the railways have very good relationships in communities. In fact, many short line railways are owned by communities, by provinces, so of course they talk to one another. The railway industry has trained first responders for many years. Our association has trained tens of thousands of responders, so this relationship is ongoing.

As I mentioned in my remarks, we have an obligation to inform a municipality of any work that we are going to do on the railway. We would like to see that they are obligated to tell us about the work that is being planned around the railway so that together we can work on the right way to build with proximity to the railway so it's safe, because there are way too many examples of unsafe practices.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Bourque and Mr. Yurdiga.

[Translation]

Mr. Pilon, go ahead for five minutes.

**Mr. François Pilon (Laval—Les Îles, NDP):** Thank you, Mr. Chair.

I would like to start with a quick question for the representatives of all three groups joining us today.

Did the member of Parliament who introduced the bill consult you before it was drafted? If so, did you have any recommendations? If you did, were the recommendations followed? Do you see them in the bill?

My question is first for Ms. Quinlan.

**Ms. Pauline Quinlan:** Sorry, but I didn't understand the beginning of your question.

**Mr. François Pilon:** Did the member of Parliament who introduced the bill consult you before drafting the legislation?

**Ms. Pauline Quinlan:** Perhaps Daniel could answer that question.

[English]

**Mr. Daniel Rubinstein:** No, FCM wasn't contacted on the content of the bill.

Just to make one point, I know Mr. Komarnicki asked whether, with the changes, it makes sense to have more powers to the minister to act when there's an issue. We would certainly say, yes, that in the current Railway Safety Act, it's limited to an immediate threat. This bill talks about expanding to significant threat. Bill C-52 goes further —

[Translation]

**Mr. François Pilon:** I want to remind you that I have only five minutes.

[English]

**Mr. Daniel Rubinstein:** There have been a lot of comments from the railway industry. I do want to have the chance to respond.

[Translation]

**Mr. François Pilon:** We know what the Conservatives' position is.

Mr. Benson, what about you?

[English]

**Mr. Phil Benson:** Briefly, we concur with the FCM on their points about the minister's power, and the answer about Ms. Bateman was no.

**Mr. Michael Bourque:** In our case, Ms. Bateman did contact us, but we never did have a chance to speak to her. She did contact us.

[Translation]

**Mr. François Pilon:** My second question is for Ms. Quinlan.

You said that some costs will be associated with this initiative. In the current climate of government fiscal restraint, do you really think the money will be available? The bill makes no mention of money.

Also, what would be the impact on a small municipality that may have two or three grade crossings to upgrade? You say that costs are associated with the initiative and that you may not have the necessary means.

**Ms. Pauline Quinlan:** I think your question is very relevant. That's actually why the Federation of Canadian Municipalities continues to ask for a contribution and assistance when we work on infrastructure of all types, but especially any infrastructure directly related to rail safety. We will have to work together on that.

We mentioned earlier that this collaboration was important and that people must be able to engage in dialogue. I think priorities will have to be established. In fact, we have to find ways to share the funding for those investments.

• (1630)

**Mr. François Pilon:** My other question is for Mr. Benson.

You said that a significant portion of accidents at grade crossings might be inevitable. Do you have any figures on that? What is the percentage? We know that there are suicides and all sorts of unavoidable events. Do you have any percentages for us?

[English]

**Mr. Phil Benson:** We'll get you the precise numbers and they're quite shocking. I can tell you that when I was meeting with the minister's staff, they were quite shocked to find out that weekly, daily, they were getting calls about people being on the track and dying, but we will get you the precise numbers.

[Translation]

**Mr. François Pilon:** I have only one minute left.

I have one last question for Mr. Benson.

I noticed that you and Ms. Quinlan talked a lot about railway safety elsewhere than at grade crossings. Do you think introducing this bill was a matter of urgency? Were there other much more urgent things to be done to improve railway safety in Canada?

[English]

**Mr. Phil Benson:** That's a difficult question, sir.

I think any particular improvements we can make should be done. We take them as we find them. I think the most important part with Bill C-52 will actually be with the next parliament dealing with the review of the Railway Safety Act. At that point, I think we'll be coming forward with several suggestions. The first is to end the self-governing, self-regulation of the industry.

We really appreciate the minister planning or pushing forward with more inspectors, greater power for the minister and inspectors. I think they're a positive. We have a lot of work to do. We're not anywhere close to the end. I think eventually we might get there, but I think what's missing is that after 9/11, it took seven, eight, nine, ten years for me to work on that file, to start to get to the point where we're actually getting to the conclusion of it. Here, just a few years after the tragedy at Lac-Mégantic, I think we're looking at a six-, seven-, eight-, nine-year fix.

Some thought 1232 tankers might solve the problem. We didn't think they would. It turns out, they don't. We will find problems and issues. As we move forward, we'll work together and hopefully the committee, as it always has, will work very hard on this issue. I look forward to working with you.

[Translation]

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Pilon.

I also want to thank the witnesses.

[English]

Ms. Young, you have five minutes.

**Ms. Wai Young (Vancouver South, CPC):** Thank you, gentlemen, and Ms. Quinlan, for being here. It's a real pleasure to have the amount of expertise and the experiences, tragic though they are, for you to share with us so that we can learn from them.

I just wanted to follow up on what Mr. Bourque was saying because I think it's quite critical to not just this bill that we're talking about today, but to where we are going as a country. You talk about the fact that, of course, we need to have this rail corridor and that it is indeed the lifeblood of our country. At the same time communities are developing and growing, which is a happy thing, but unfortunately they're growing in places where it could be dangerous to them.

I know you have some kind of committee or something in place.

But if you know that safety hazards and deaths are inevitable, which I think is what I'm hearing from all of you, why is it that this group of learned and experienced people here representing the different organizations that you represent, knowing that these are outstanding and critical issues in Canada.... Why is there not a plan in place to address this?

Maybe I'll start with Michael, and perhaps each of you can answer that, I think, very blunt but very important question.

Thank you.

**Mr. Michael Bourque:** Well, I don't want to leave the impression that good work isn't being done, because there is a lot of very good work being done.

I mentioned the proximity guidelines we have developed with the FCM. We're working together with them to try to convince provinces and municipalities to adopt those guidelines. We're working on a number of technical parts to that—a vibration study, for example—so that the engineers will know more about how to build within proximity.

There is a lot of good work going on and I don't want to sound overly critical of the regulatory framework that's in place. Sometimes you just need some time for them to take effect. For example, with the grade crossing regulations, those were just introduced in final format on December 17, 2014. There is a five- to seven-year period for most of the provisions so that companies can afford to implement the changes and look at the sightlines. Sometimes they have to change the railway entirely or remove buildings. There would be all kinds of changes that would be required to comply with those regulations.

There is a lot of good work. It is a continuous improvement environment that we live in. But I guess one of the points I would leave with you is that this is an all-of-society problem. We do need these corridors and we do need to work together. That includes all levels of government stepping up and building overpasses and underpasses so that we can be safe and also travel on those railways.

● (1635)

**Ms. Wai Young:** I'm quite taken by the zoning issue and your example earlier about having a school built on one side of the tracks and a McDonald's built on the other. Surely that has to be commonsensical, yet this is happening in communities everywhere—and I note that you're all nodding your heads.

It's not just about building safe crossings. It's about zoning and planning for the future, I think, because if that's where it rests.... Or do you need a federal law to say that this 300-metre proximity guideline needs to be in effect, and that trumps all the zoning across the rail corridor? I'm not sure.

But I just wanted to say that perhaps more robust work can happen in this area. Because if Montreal is the only city that has adopted the guidelines, and you know that building is happening at a great pace—certainly it's happening at a great pace in my city of Vancouver—then we have a serious problem. Those things are being built as we speak, yet the zoning is not catching up, obviously.

I'm going to ask you to keep your comments brief because I only have so much time. Perhaps we can hear from the rest of you, please.

**Mr. Phil Benson:** That is a wonderful question.

Just so you know, all the industry—Teamsters, the RAC employers—work on this. We share a concern, but it's three levels of government. When I was working on a different file many years ago, it actually shocked me to find out how much it costs. You're looking at \$20 million to \$25 million. Let's just take a situation where, okay, we're going to put an overpass for the kids to walk across. We just saw in Ottawa what that bridge going across the Queensway cost.

It's an issue of funding and commitment by all levels of government. It's not just zoning. Also, if we're going to have these, I like the idea of the highways going down delivering the goods and services that the country needs—

**Ms. Wai Young:** Mr. Benson, you're looking backwards. Certainly we have safety issues and we've heard about those, but I'm talking about the future and that is zoning, isn't it?

**Mr. Phil Benson:** It's partly zoning, but it's partly that no city is going to take a chunk of land and make it sterile by not letting it be developed. Who is going to pay for the overpass and who is going to pay for the planning? Do you take that into account in your regulations?

**Ms. Wai Young:** Well, I have to say that in the case in which you have developers—

**The Vice-Chair (Mr. Hoang Mai):** Ms. Young—

**Mr. Phil Benson:** I would not disagree. I think there's a solution and that we should work towards it.

**The Vice-Chair (Mr. Hoang Mai):** If the committee permits, I'll use the next round. It is an NDP round, but since I'm not sitting on that side of the table, I'll use this round, if you don't mind. Is everyone fine with that?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Hoang Mai):** Perfect. Thank you.

Thank you, witnesses, for being here.

Here is a question to Mr. Bourque. You mentioned the issue of closing or opening crossings. What more should be done by way of consultation? You mentioned that railways should be consulted, especially when we talk about reopening a crossing, but what about when they are being closed down? Do you think there should be more consultation with the public, or maybe with the municipalities?

What is your view on that?

• (1640)

**Mr. Michael Bourque:** Meaningful consultation is always a good thing. But what we're suggesting is that currently there is a machinery-of-government change required. It's appropriate that during the review of the Canada Transportation Act this be noted.

I would suggest that the Canadian Transportation Agency is the wrong agency to approve new crossings. I would suggest that your first obligation in the building of a new crossing is safety and that therefore a new crossing should be approved by Transport Canada under the rail safety lens, if you will.

**The Vice-Chair (Mr. Hoang Mai):** Is there a possibility under Bill C-627 that when, for instance, the minister decides to close a

crossing, that move could affect the activities of railways? For instance, shutting down crossings, or not making—

**Mr. Michael Bourque:** Well, if they're shutting the railway, then it does. If they're shutting the road part of the crossing, it doesn't impact us. Quite frankly, what we see as the safest crossing is a crossing that has been closed. We would like to see far fewer crossings in this country.

**The Vice-Chair (Mr. Hoang Mai):** But when you read the bill, do you see or does anyone here see a possibility that...?

Yes, Mr. Rubinstein.

**Mr. Daniel Rubinstein:** If I may, let me have an opportunity as the sole municipal representation here at the committee today to respond to some of the points that have been raised here. The last four or five members have spoken about land use. Let me just take a second, if you don't mind.

The proximity initiative that we have with the Railway Association sets out guidelines for our members and for provinces to look at, for managing land use near railway corridors. The reason this initiative is happening at the provincial and municipal level is, as Mr. Bourque said, that this is the level at which land use is managed. It is not federal jurisdiction to manage land use for provinces or municipalities, which is why this initiative is oriented towards those other orders of government.

Mr. Bourque has talked about consultation with his members when there is a land use change by one of our members. I think it's really important for the committee to realize that the superhighway of goods being moved is absolutely critical for the economy. Our members are not consulted when there are changes in the frequency, volume, or length of trains—any of these issues—through our main line corridors. When looking at any crossing, and this could be in any community, the issue is not one-sided. There are two parties at every crossing.

Absolutely municipalities need to look at their role in land use. It is not only the City of Montreal that has notification. The entire Province of Ontario has a legislative requirement for notification, similar to what Mr. Bourque has asked the government to look at nationally. I just can't underscore enough the importance for this two-sided perspective in looking at crossing issues. We have to look at changes from where they begin. If there are changes related to train length, or frequency, or capacity that are not made in a fashion commensurate with increases in railway capacity and if those are the cause of more issues at crossings, then we can't go back to say that they are only due to land use. Both matter.

Again, we have the proximity initiative to advance this issue as we can within our federation, where land use is done at the provincial and municipal level, and we'll be making these types of comments to the CTA review, which has been charged with looking at these issues. I'm sure the committee will have an opportunity to look at those recommendations in a holistic way. This meeting today is not about the CTA review or those recommendations.

**The Vice-Chair (Mr. Hoang Mai):** Okay. Thank you very much.

Now we go to Mr. Braid for five minutes, please.

**Mr. Peter Braid (Kitchener—Waterloo, CPC):** Thank you very much, Mr. Chair.

Thank you to everyone for being here this afternoon. We've had some helpful discussion today.

I want to better understand some issues of ownership and responsibility based on some comments this afternoon. Mr. Bourque, I think you mentioned that in Canada there are more than 30,000 grade crossings. Is that correct?

**Mr. Michael Bourque:** Those are the ones that are federally regulated. There are also a number that are provincially regulated, many undocumented. You actually can't get a fixed number for the total of crossings in this country, but it is tens of thousands.

**Mr. Peter Braid:** Okay. Of those, who owns the majority? Are they owned by railway companies? Are they owned by municipal governments? Where is the ownership of these things?

• (1645)

**Mr. Michael Bourque:** The ownership is really spread all over the place. If you have a road crossing in a busy municipality, the rail bed is owned by the railway and the crossing is owned partly by the railway and partly by the municipality, and they'll have an agreement in place for the maintenance and care of that crossing.

**Mr. Peter Braid:** Who is ultimately responsible, then, to ensure the safety of the grade crossing and its ongoing maintenance?

**Mr. Michael Bourque:** As Daniel mentioned, under the grade crossings regulations there is a shared responsibility. Certainly the railways' view is that there is an obligation to have safe crossings. One of the problems we have is that there are very many crossings. Often they're private crossings. As I mentioned, some of those that are private don't have any kind of agreement in place and there is no record of any kind of ownership sharing.

It's a huge spectrum, to answer your question. It's impossible to cite just one specific instance, because it's a big spectrum.

**Mr. Peter Braid:** Okay. Simply put, is it correct to say that some grade crossings are owned by railway companies, some are owned by municipalities, and some are shared by both? Is that a fair statement? If that is correct, in the case of grade crossings that are owned by railway companies, should it not be the responsibility of the railway company to ensure its ongoing safety and maintenance?

**Mr. Michael Bourque:** The only case in which you would have a pure railway company owning its crossing would be on its own property, in which case of course it would look after it.

Generally speaking, as I mentioned—and obviously we recognize that there is a need to cross railway tracks—from a safety standpoint we would like fewer of them. I happened to be at an international rail

safety conference a couple of years ago, and the Government of India was presenting. They have a very aggressive plan to grow their rail network, and their objective is zero new crossings. The reason for that is safety.

**Mr. Peter Braid:** How long have the proximity guidelines that you mentioned been in place?

**Mr. Michael Bourque:** We just renewed them in 2013, so the new versions of them predate the accident at Lac-Mégantic by just a couple of months.

**Mr. Peter Braid:** To what extent are you satisfied that municipalities are following these guidelines, and what is standing in the way when that is not happening?

**Mr. Michael Bourque:** As Daniel mentioned, some jurisdictions, such as Ontario, are making great progress. Montreal, which has a mayor who used to be a member of this committee, is obviously a little more enlightened than others. But we're making some progress. We'd love to see more municipalities adopt these guidelines.

**Mr. Peter Braid:** Montreal is only one city, so what's next?

**Mr. Daniel Rubinstein:** Let me say, Mr. Braid, that we have big cities across the country looking at this issue very closely right now. Obviously the tragedy in Lac-Mégantic raised everyone's awareness of this issue. I don't want to have the committee leave with the impression that Montreal is the start and the end of this conversation. We have big cities in particular across the country that are in various stages of studying the guidelines and implementing them. As Mr. Bourque said, this process is complemented by our joint advocacy with provincial governments related to whatever land use reviews they are doing at their level.

**The Vice-Chair (Mr. Hoang Mai):** Thank you, Mr. Braid.

Mr. Watson, you have five minutes.

**Mr. Jeff Watson:** Thank you, Mr. Vice-Chair. Thank you to our witnesses for appearing.

I want to come back to the bill itself here, if I can. We've had a good general discussion, and I want to be sure we're not conflating a number of issues, whether they are grade separation, grade improvement, and grade crossing closures, with the issue of grade safety that may not necessarily be related to any of these matters.

For example, if we have a problem with signal malfunction, or repeat failure of signal function, this bill, as I understand it, would grant the ability of railway safety inspectors to order a speed reduction or a ministerial order to be able to ensure that certain corrective measures are taken on an interim basis. For example, whether flag signal bearers are present to stop traffic additionally or direct traffic, those measures would have to be provided. Does the panel agree that this is an important clarification and a step forward with respect to the safety of a railway at a particular crossing? Does anybody have an objection to that?

• (1650)

**Mr. Don Ashley:** We agree with you and we think it does take that step forward. We also, as Mr. Bourque mentioned earlier in response to a previous question about whether or not the language “safe rail operations” went far enough, or included or didn't include—we could argue that all day long in court. I think the amendments presented here just give that clarity so that it doesn't get watered down. The intent may be understood here, but when that's filtered out to the field and to inspectors, that clarity is not there and could be interpreted some other way, whereas in fact this language straightens that.

**Mr. Jeff Watson:** In fact, inspectors, if they don't feel they have the confidence of clarity in terms of the regulations or powers that exist, may not issue with confidence a particular corrective measure or take an action because they want to act with the certainty that they have the authority to do that.

Is that correct, Mr. Ashley?

**Mr. Don Ashley:** That's correct.

**Mr. Jeff Watson:** Okay. If we're dealing with issues of sightlines, for example, it may be ordered on an interim basis. This bill, as I understand it, would allow for a railway company perhaps be ordered to reduce speed until such time as the sightline has been remedied. Does anybody think that is something that we shouldn't be considering with respect to this bill? Does anybody have a problem with that issue or take objection to that particular measure?

**Mr. Don Ashley:** Again, we agree with it.

**Mr. Jeff Watson:** Sometimes, when work is being done, an adjacent landowner may have a complaint about that. They may then file a particular complaint, and maybe they have a consideration about legitimate safety or maybe they just don't want the work to happen adjacent to their property. In a conflict like that, I understand that this would allow the minister to resolve those types of complaints, and if they're vexatious, to be able to dismiss a complaint that in fact isn't about legitimate safety concerns of a property owner or is not somehow in the public interest, and that the work should proceed.

Is there support for a measure like that or is there an objection to a measure like that?

**Mr. Phil Benson:** It's a matter we would support. Of course, this bill does not preclude judicial review, but I think it's important that, if it's a true rail safety issue or something that has to be done, it has to be done. For legitimate concerns, exactly, but for purely vexatious complaints, it certainly would help eliminate those few complaints that do happen.

**Mr. Jeff Watson:** Now, from the government's perspective, obviously, and we've heard some of this today at the table, we have a private member who has seen an issue and has tried to address it with Bill C-627. Obviously, the government, from its own perspective, has brought forward a bill, Bill C-52, that takes a number of issues but has recognized what the private member has done and is looking for a way, I think, if it were to pass first, to dovetail that into the legislation.

We don't know which bill will pass, or both, or whatever. We're coming to the end of a parliament, so this committee is tasked with dealing with this specific bill and this specific language. Given that and Bill C-52 aside, do the stakeholders here support the measures of Bill C-627 moving forward? That's what this committee has to decide.

**Mr. Phil Benson:** Pass the bill.

**Mr. Daniel Rubinstein:** Yes, from FCM's perspective, as I mentioned before, I think the key trend, both with this bill and Bill C-52, is the expansion of the scope in which the minister and inspectors can act when there's a threat. We know the development of the grade crossing regulations dealing with walk-crossing issues is prescribed right now for immediate threats. That's very narrow, so “significant threat” in this bill and then even the broader interpretation in Bill C-52 are welcome.

• (1655)

**Mr. Jeff Watson:** Mr. Chair, with that I will just thank MP Bateman, who brought forward the bill, and I look forward to clause-by-clause at a subsequent meeting.

**The Vice-Chair (Mr. Hoang Mai):** I'd like to thank the witnesses for being here today.

[*Translation*]

Thank you for sharing your expertise with us. Your recommendations and advice will help the members of this committee examine this bill more thoroughly.

[*English*]

I'll just remind members that the time limit for amendments is this Friday around 2 p.m. Thank you.

The meeting is adjourned.







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