

SUBMISSION

by

The Railway Association of Canada

to the

**Standing Committee on Human Resources, Social
Development
and the Status of Persons with Disabilities (HUMA)**

on

Bill C-257

An Act to amend the Canada Labour Code

December 2006

THE RAILWAY ASSOCIATION OF CANADA

The Railway Association of Canada (RAC) represents virtually all railways operating in Canada, most of which are federally regulated, including the large Class 1 railways (CN and Canadian Pacific Railway), short line and regional railways, inter-city passenger and commuter rail service providers, and tourist train operators. As its CEO, I am pleased to have this opportunity to comment on Bill C-257. My remarks will focus on the overall implication of this proposed legislation on the rail industry and more generally, Canada's ability to compete. I am not an expert on labour law, and I will leave these considerations to others to comment.

The RAC is strongly opposed to the adoption of this legislation.

Federal Jurisdiction

Since Confederation, Canada's legislators have identified some economic sectors as being so strategic to the future of the country that they have to be federally regulated. Canada's railways were a part of this group from the beginning. The railway industry was not only an integral part of the creation of Canada but was also recognized as critical infrastructure that would bind the country together and make a major contribution to our growth and well being. This link between the rail sector and Canada is even more important today. The rail sector, physically linking almost all regions of the country, is part of the critical transportation infrastructure of Canada. It not only moves goods and carries people within the country, it also connects with ports (another federally regulated industry) and the rail network located south of our border, ensuring Canada can remain competitive in a global economy.

Canada's railways move almost 65% of all of the goods shipped by surface in Canada. They are by far the biggest transportation service providers for our exports and imports. Canada is a trading nation; our prosperity depends on our ability to compete and thrive in this increasingly global market place.

The legislation that you have before you would have major negative effects on Canada's competitiveness through worsening the ability of Canada's railways to provide a stable, safe, secure and highly competitive transportation service. The major concerns we have with this proposed legislation are:

1. Competitive Impact

Canada is vigorously competing for a greater share of world trade. This is critical to our future prosperity. The rail industry is a major player in this competition. One example is the effort to improve Canada's our position through the Pacific Gateway Program. We are competing with the U.S. and Mexico for a greater share of Asia-Pacific trade. Labour stability is a critical part of the equation. In fact, it is raised on many occasions by Asian shippers as a concern in evaluating the Canadian option. This legislation will clearly shift the labour/management balance and increase uncertainty and the probability of labour disruptions. This will hurt our ability to compete in this growing market. I could list other examples such as the critical importance of stable rail services to many smaller centres in central Canada that rely on the shipment of pulp, paper, and wood products to market in the U.S. and Europe. The consequences of destabilizing the labour environment are profound and should be studied in detail before proceeding further.

2. Regional/Local Impacts

It is not widely known but Canada's railway industry is made up of a large number (over 40) of short line and regional railways that service local markets and connect many communities to the national and international rail networks. Again a disruption in rail services could have profound local effects. For example, almost all dangerous goods move by rail because it is by far the safest mode of surface transport. Think of the consequences if chlorine supplies were interrupted for communities' water supply systems or cars manufactured in Canada could not move from the numerous plants in Southern Ontario to markets in the U.S. In consulting our members on this proposal, we heard many expressions of concern. One in particular is noteworthy. Tshiuetin Rail Transportation Inc. is a small, native-owned short line railway that operates in Labrador and Northern Québec both a passenger service and freight service vital to the remote community of Schefferville. Should there be a strike or labour disruption, this community would lose its only surface transportation link with the outside world.

Bill C-257 will create a situation where a labour conflict could bring to a halt not only freight trains but also commuter trains in Toronto, Vancouver and Montreal, with a domino effect that could impact other employers or industries, such as ports as an example. How many people might be laid off as a result of the indirect impact of a strike? Certainly thousands in the rail sector alone. Again, I could give many other examples. Clearly this legislation raises the risk of many "unintended consequences" and deserves more study.

3. Canada's Reputation

Preventing the use of replacement workers could put Canada's reputation at stake. Canada is currently facing a productivity challenge. Can we afford to increase the probability of disrupting exports which represent 40% of the National Gross Domestic Product? I kindly submit that we can't. In fact in the last major rail labour conflict that resulted in a strike or lock out, legislators recognized the strategic importance of rail and included provisions in the *Act to provide for the maintenance of railway operations and subsidiary services* that mandated arbitrators (Commissions) to be

"guided by the need for terms and conditions of employment that are consistent with the economic viability and competitiveness of a coast-to-coast rail system in both the short and the long term, taking into account the importance of good labour-management relations."

Given the critical nature of rail service, as well as most other federally regulated industries, which operates 365 day a year, 24 hours a day, government will likely have to intervene in labour disputes, and order people to resume work.

4. Effectiveness

As I said, I am not an industrial relations expert, but one can easily dismiss the assertions made by the proponents of this Bill on its expected benefits. In an October 2006 study by the *Labour Program, Human Resources and Social Development Canada* entitled "**KEY OBSERVATIONS REGARDING THE EFFECT OF REPLACEMENT WORKER LEGISLATION ON WORKERS**" it is stated, in part, that:

- (1) There is no evidence that replacement worker legislation reduces the number of work stoppages”.
- (2) “There is no evidence that replacement workers legislation results in shorter duration of work stoppages.”
- (3) “There is no evidence that replacement worker legislation has reduced the average duration of work stoppages”
- (4) “There is no evidence that replacement worker legislation reduces the number of work days lost”

These are the findings of the Labour Program of the Federal Government, they are current, and they directly contradict the necessity for change provided by the sponsors of Bill C-257.

In addition, according to the Canada Industrial Relations Board, in 2005-2006, 97% of all cases where a request for assistance was made to the Federal Mediation and Conciliation Service (FMCS), the body responsible for providing dispute resolution and dispute prevention assistance to trade unions and employers under the jurisdiction of the Canada Labour Code, were settled without a work stoppage. This is a clear demonstration that the system works. Do I really need to say more?

Canada's rail industry believes in sound, stable and respectful labour management relations. We believe that a stable and productive labour environment is critical to the interest of all Canadians and we are committed to contributing to this goal. This legislation will not further this objective but will destabilize the labour management environment and lead to more disruptions. It is both bad economic policy and bad labour policy. We respectfully submit that it should be rejected or at least deferred for further study.

Thank you,

Cliff Mackay
President & C.E.O.