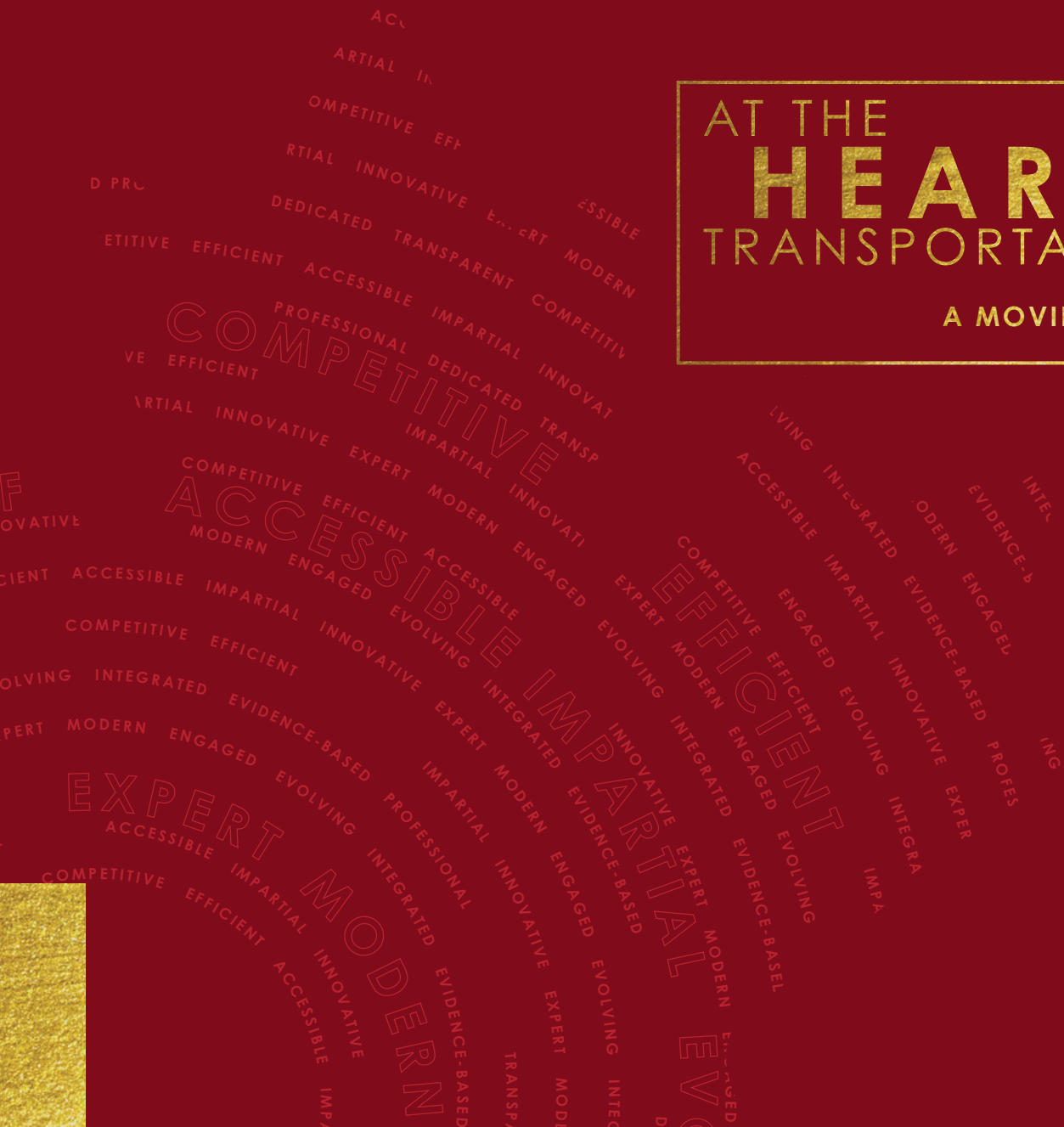
Canadian Transportation Agency

Office des transports du Canada

AT THE HEART OF TRANSPORTATION:

A MOVING HISTORY



Canada

THIS DOCUMENT AND OTHER CANADIAN TRANSPORTATION AGENCY PUBLICATIONS ARE AVAILABLE ON OUR WEBSITE AT **CTA.GC.CA**

For more information about the Agency, please contact:
Canadian Transportation Agency
Ottawa, Ontario K1A 0N9
Telephone: 1-888-222-2592
TTY: 1-800-669-5575
Facsimile: 819-997-6727
Email: info@otc-cta.gc.ca
Website: cta.gc.ca

© Her Majesty the Queen in Right of Canada, as represented by the Canadian Transportation Agency, 2017

Catalogue No. TT4-2/2017E
ISBN 978-0-660-08588-3

Available in multiple formats

TABLE OF CONTENTS

MESSAGE FROM THE CHAIR AND CEO

June 2017

This overview of the Canadian Transportation Agency's history was first released on the occasion of the Agency's centenary in 2004.

This updated version has been prepared to mark Canada's 150th anniversary. The Agency has played an integral role in helping to foster a competitive, efficient, accessible national transportation system and looks forward to continuing to do so for many years to come.

Scott Streiner
Chair and Chief Executive Officer

ALL ABOARD

THE BOARD OF RAILWAY COMMISSIONERS, 1904 TO 1938

+ February 1, 1904, the Board of Railway Commissioners was inaugurated.

+ August 4, 1914, Canada joins Britain in the war effort.

+ 1930s, the Great Depression hits — many Canadians experience difficult times.

The Canadian Transportation Agency had its origins 100 years ago in an atmosphere of intense commercial competition. It has emerged as a vital though largely low-key player in shaping the Canada we know today.

The Agency's story began with the establishment of the Board of Railway Commissioners in Ottawa on a snowbound February day in 1904.

From the beginning, the Railway Commissioners faced obstacles. According to the *Railway Act* of 1903, the Board was to be inaugurated on February 1, 1904. However, as the Ottawa Citizen noted on February 2, in a procedural glitch, the appointments to the Board had been made "by Order in Council and gazetted before the date of the coming into force of the Act which established the commission." The official launch would be delayed because "new Orders in Council will have to be passed making the appointments."

Even Nature conspired against the new Board. Local newspapers ran stories about the record snowfall in the Dominion's capital that February,

making it difficult to travel. "Snow clearing seems to be the principal industry in Ottawa this winter," the Citizen glibly reported.

It was not an auspicious beginning, but the newly appointed Railway Commissioners plunged ahead. On February 9, Andrew G. Blair, as chairman of the Board, addressed a group of railway executives and business luminaries. He was an imposing figure, a large, dour-looking man, a month short of his 60th birthday, his face, beneath a heavy white beard, worn by the tense months of political fighting, and then, lately, by inertia.

But his voice did not waver when he spoke: "The powers and jurisdiction conferred upon this Board are comprehensive in their scope, far-reaching in their effects and they will touch at a vital point the already immense and constantly increasing business interests of the country on the one hand, and the great and always growing interests of the railway interests on the other."

Moments later, however, he added, "We are without a staff and without quarters to transact our business [...] Although we are quite unequipped, we thought we would take up two or three applications at this date."[1] If his comments verged on whining, he could be forgiven. Blair had been working toward this goal for several years and was anxious to see it accomplished.

As far back as 1896, he had seen the necessity of establishing a permanent and independent regulatory body to ensure that the public interest was served in the race to expand Canada's railways.[2]

Railways had been at the centre of economic growth in Canada since the 1850s. In fact, they had played a dramatic role in the creation of Canada. The Grand Trunk Railway, completed between Toronto and Montréal in 1856, linked Canada West with Canada East (now Ontario and Québec), and helped to lay the groundwork for Confederation.[3]

The promise of a railway was instrumental in the decision of Nova Scotia and New Brunswick to join as well. (The Intercolonial Railway was completed in 1876, linking Nova Scotia and New Brunswick to Québec.) In 1871, British Columbia was drawn into Confederation with the promise of a rail link to the rest of Canada. The result of that provision was Canada's first transcontinental railway, completed in 1885 by Canadian Pacific Railways (CP). Aid for Prince Edward Island's debt-ridden railway, and a year-round link to the mainland, lured that province into the union in 1873.

At the dawn of the 20th century, shiploads of immigrants were pouring into the country's ports, and the railways, with their huge land grants, were largely responsible for where they settled. Railway companies also controlled the movement of goods and passengers across the country, and were vital to the Dominion's industrial growth.

---

1 The *Ottawa Citizen*, February 11, 1904, reported on the first hearing of the Board of Railway Commissioners.
2 The limitations of the Privy Council's Railway Committee are discussed in W.T. Jackman's Economics of Transportation, p. 659-660, and Ken Cruikshank's Close Ties: Railway 5, Government, and the Board of Railway Commisioners, 1851–1933, p. 57-64.
3 Two histories that describe the early transportation system in British North America and in the first years after Confederation are Oscar D. Skelton's *The Railway Builders*, and G.P. de T. Glazebrook's *A History of Transportation in Canada*, Volumes I and II.

But as Canada's business interests became more dependent on rail travel for supplies and markets, shippers began to complain about freight prices and about the railways' near monopolies on transportation. Railway companies argued that they needed to charge rates that would pay their costs, which indeed they did. But they were not charging everyone the same rate, and that was the crux of the problem.[4]

Freight-rate competition was healthy in Central Canada, where several railway companies vied with one another, with water transportation and with American railways south of the border for customers. The railways had to set competitively low rates, often offering special deals to their bigger and better customers.

But in regions where competition was low or non-existent, freight rates were set higher. The railway companies reasoned that they were recouping the profits that they had shaved off in the more competitive regions. It made good business sense to them, but not to the shippers being charged the higher rates. Inevitably the complaints were heard by the politicians in Ottawa.

Some of the loudest complaints came from the Western provinces where the only transcontinental railway, CP, had held a virtual monopoly since 1885. Successive governments in Ottawa, which had heavily subsidized much of the railway construction across Canada, sought a solution to the debate.

When Andrew G. Blair became Canada's Minister of Railways and Canals in 1896, there was already a Railway Committee of the Privy Council, of which he became chairman. The Committee had been created by the *Railway Act* of 1888. (This Act was a revision of the *General Railway Act of Canada* of 1868, the first railway legislation after Confederation, which itself was drawn from *The Railway Clauses Consolidation Act* of 1851. Neither of these acts had any real force, and the railway companies had largely ignored them and set their own rates.)[5]

The Railway Committee of the Privy Council was intended to regulate railway freight rates and to hear complaints as a judicial body. But Blair soon discovered that it had serious defects: it was made up of politicians who could not be called unbiased; it was based in Ottawa and did not travel; committee members did not have any technical training; and there was no permanent staff.

A lawyer and a seasoned politician, Blair was known for his canny political mind and his unwavering determination. He had sat for 18 years in the New Brunswick legislature, 14 years of that time as premier. When he joined Sir Wilfrid Laurier's government, he was 52 years old. He brought with him to Ottawa his wife, Anne, a welcome addition to the capital's social circle, and those of his ten children who were still living at home.[6]

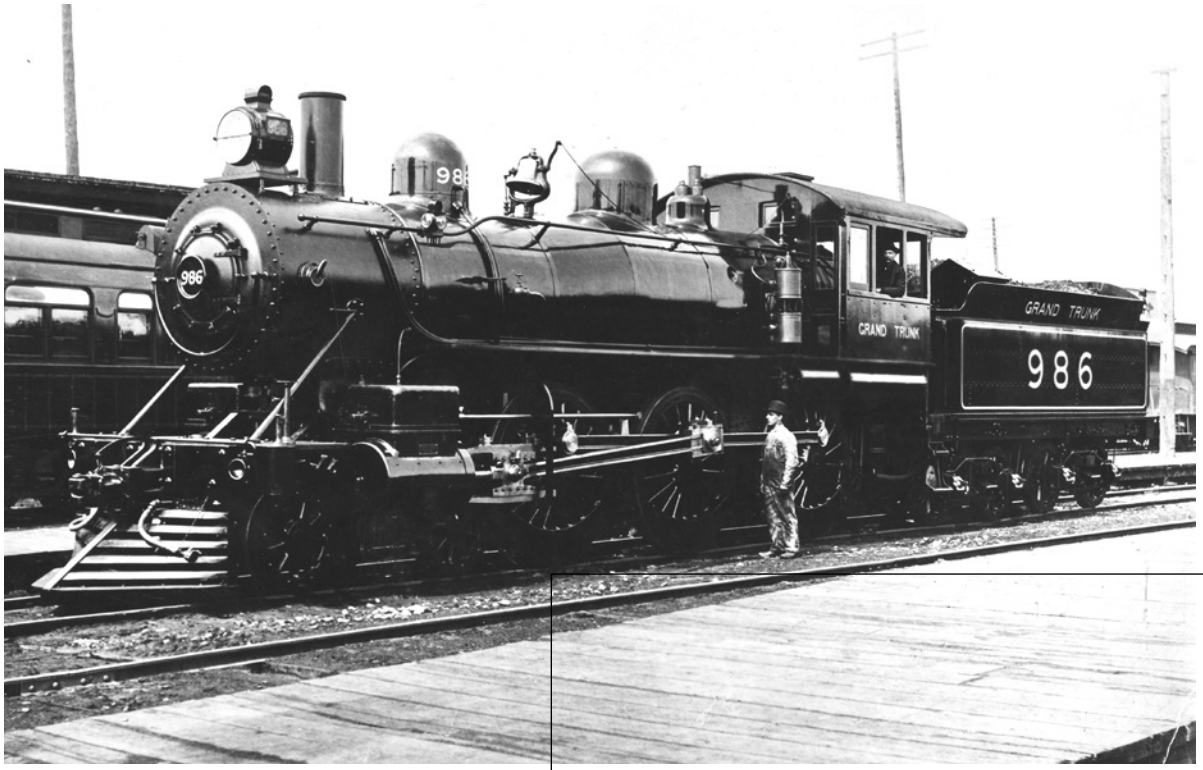
As Minister of Railways and Canals, he set to work to find solutions to the freight-rates

---

4 Accounts of the development of Canada's freight rate structure can be found in A.W. Currie's Economics of Canadian Transportation, Ken Cruikshank's Close Ties and W.T. Jackman's *Economics of Transportation*.

5 Ken Cruikshank, *Close Ties*, p. 48.

6 The *Dictionary of Canadian Biography*, Volume XIII, (1901-1910) describes A.G. Blair's political and personal life. Mrs. Blair's social skills are mentioned in Sandra Gwyn's *The Private Capital*.



GRAND TRUNK RAILWAY "TEN WHEELER" STEAM LOCOMOTIVE NO. 986, 1900, CSTM/CN003833

problem. In 1897, Blair worked on the Crowsnest Pass Agreement in which the government gave CP a subsidy for construction of its Crowsnest Pass line in return for the company reducing rates — the so-called Crow rate — on grain going to the Lakehead and to many westbound routes.

In 1899, Blair commissioned Simon J. McLean, a noted political economist of the time, to study railway commissions in Britain and the United States, and then, in 1901, to examine railway rates in Canada. With the results of McLean's two reports, Blair introduced a bill in 1902 to establish a railway board. That bill was rejected, so Blair went back to work to draft another proposal.[7]

On March 20, 1903, he introduced a revised bill to establish a Board of Railway Commissioners, an independent body with regulatory powers over railways. That bill passed, and with the

7 Ken Cruikshank, *Close Ties*, p. 65.

Governor General's assent in October 24, 1903, it would become law.

Meanwhile, the government was considering another solution to the freight rates issue — competition. And Sir Wilfrid Laurier had taken the matter into his own hands. Two railway companies had been lobbying for several months for government funds to expand their lines in the West.

Laurier held the view that, with competition, CP would lower freight rates, western shippers would be happy, and the competing railways would flourish. He also had visions of the grain-rich West expanding with new settlers and new industry. He reasoned that a second railway would be needed to accommodate this burgeoning wealth.

The Grand Trunk Railway — with lines within Central Canada that reached from North Bay, Ontario in the north, to Chicago in the U.S. Midwest, and to Portland, Maine in the East — proposed, with government support, to build a western system from its northern terminus at North Bay to Winnipeg, and on to the West Coast. Promoters of the Canadian Northern Railway (CN), with links from Edmonton to Port Arthur (now Thunder Bay), proposed branches extending east and west to both coasts. At first, Laurier attempted to work out a deal in which the two railway companies would combine their efforts into one transcontinental network, but an agreement could not be reached.[8]

Laurier remained determined to have a second transcontinental railway. He favoured the Grand Trunk and proposed a deal in which the government would build the eastern section of the new line and the Grand Trunk would build the western portion.

Blair objected, chiefly because the Grand Trunk already had an eastern terminus at Portland, Maine, completely bypassing the Maritime provinces. Blair had his own proposal — the Canadian Northern, with an extension to the West Coast, would hook up with the government-owned Intercolonial at Québec City, which would take traffic through the Maritimes to Halifax.

Laurier would not be deflected from his own developing plan. Blair would not support him. In the resulting impasse, Laurier decided to ignore Blair, excluding him from the railway discussions. On July 13, 1903, Blair resigned as Minister of Railways and Canals.

On July 30, Laurier presented his bill giving the go-ahead for the Grand Trunk Pacific Railway. Blair stood as a private member in the House of Commons on August 11, 1903, to deliver a speech condemning the Grand Trunk plan. It was a stirring bit of rhetoric, but it had little effect on the plan. On September 29, the bill passed its third reading.

In December, Laurier appointed Blair to head the new Board of Railway Commissioners. The two men had not resolved their differences, but the veteran politicians had made expedient choices. Laurier saw that Blair's proven abilities would be put to good use as chairman of the new Board, and appreciated the advantage of removing him from the House of Commons where he could cause trouble.

8 Joseph Schull, *Laurier: The first Canadian*, p. 422.

Blair, for his part, had failed to stop the Grand Trunk bill and was short of allies in the House. The task of leading the new Board, his brainchild, through its first faltering steps was an opportune route for retreat. And so there he sat on that frosty February day in 1904, in an office he had known well as a cabinet minister. The Board had been given temporary quarters in the Railway Committee's old offices, in the West Block of the Parliament Buildings.

But, despite the familiar surroundings, Blair had entered a whole new realm, an uncharted course in Canadian regulation. No one could doubt the tremendous authority that had been bestowed on the Board. It had the full powers of a Superior Court to hear all railway complaints and its decisions had the force of law. It had regulatory powers over construction, operation and safety of railways (except those owned by the government), and on such matters as freight rates, fares, demurrage and other charges.

According to the *Railway Act*, the Board was to consist of three commissioners, each appointed for a ten-year term. Michel E. Bernier, who had been in Laurier's cabinet as Minister of Inland Revenue and who had sat on the Railway Committee of the Privy Council with Blair, was appointed the Deputy Commissioner. The other member of the Board was James Mills, who had been called from his post as the first president of the Ontario Agricultural College in Guelph, Ontario.

Together the three men set to work to establish rules and regulations for the new body. They had no models to follow. Theirs was the first independent regulatory body established by the Dominion government. They would lay the groundwork for a new method of public regulation in Canada.

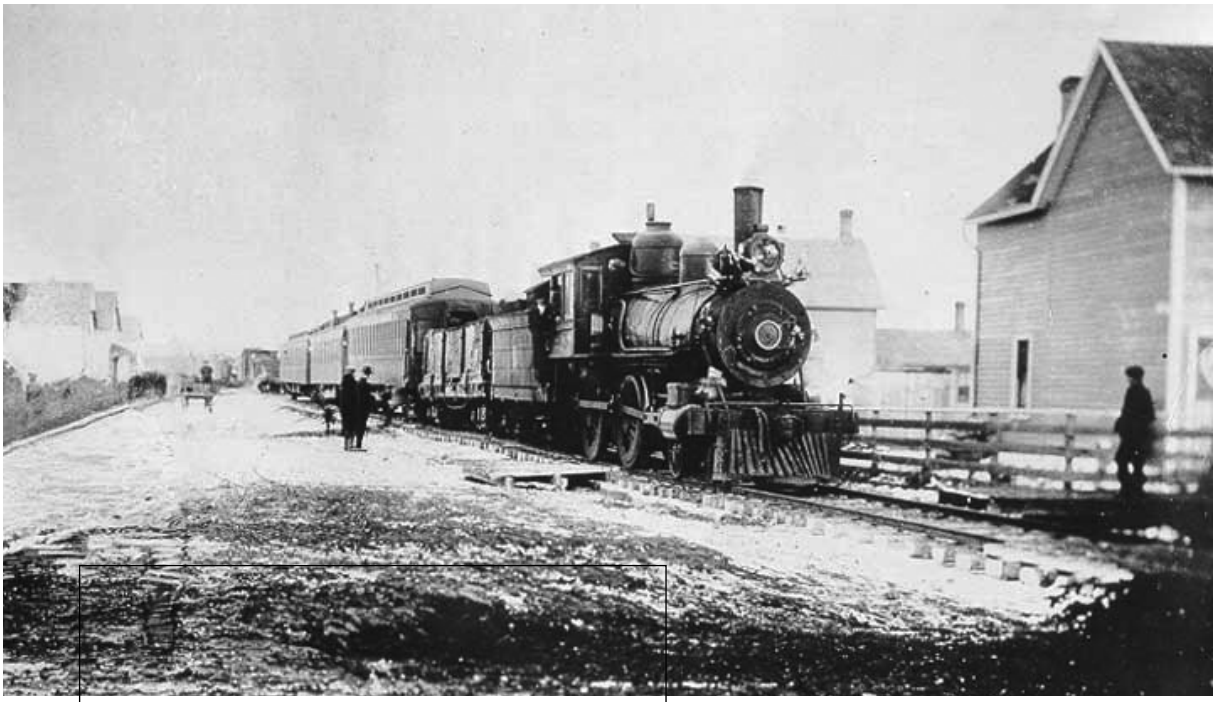
The first Annual Report of the Board shows that the commissioners took up their tasks with a great deal of energy. Between February 9 and October 18, the Board held 62 days of public sittings. Although 38 of those days were spent in Ottawa, the Board travelled to Toronto for six days of hearings in June and, between August 8 and September 18, it held 18 days of sittings in 15 different locations between Winnipeg and Victoria.

The Board also hired 19 permanent employees — one of them being Blair's son and namesake, A.G. Blair Jr., as the Board's law clerk — and set up four departments to handle routine work.

The Records Department dealt with the paperwork — complaints received by the Board, orders and decisions issued by the Commissioners as well as investigations carried out. The Traffic Department dealt with tariffs and freight classifications. The Engineering Department inspected and approved construction and repairs on railways and crossings. The Accident Branch investigated railway accidents.

The Board was also establishing its credentials with the Canadian public. In July 1904, the Law Journal reported that "we doubt if even the Dominion Government, which constituted the Board, has yet realized that it has created a Court of such extended jurisdiction as this Board possesses, and which jurisdiction, if wisely exercised by a tribunal of competent members, will be both a safeguard to the public and a speedy method of settling differences between railway companies."

But the 60-year-old Blair, busy as he was marshalling the Board through its formative days, had not hung up his gloves in the political ring. The fall of 1904 brought the excitement of a federal election and fresh battles to be fought. Laurier led his campaign with promises of a bigger and better Canada.



FIRST PASSENGER TRAIN TO EDMONTON FROM WINNIPEG, CANADIAN NORTHERN RAILWAY COMPANY, 1905, CSTM/CN002380

The election would yield one of the most often repeated — and misquoted — phrases in Canadian political history. On October 15, *The Globe* newspaper reported on an election rally for Laurier, at Massey Hall in Toronto. "Let me tell you, my fellow countrymen, that all the signs point this way, that the twentieth century shall be the century of Canada and of Canadian development," Laurier declared. Among Laurier's promises was the second transcontinental railway that his deal with the Grand Trunk Railway Company would provide.

Four days later, the October 19 edition of the *Daily Telegraph* in Saint John, New Brunswick carried a blaring headline, "BLAIR RESIGNS AND WILL STUMP COUNTRY AGAINST G.T.P. SCHEME." According to *The Telegraph*, Blair had sent the following telegram to its editor: "I authorize the announcement that I have resigned my position as Chairman of the Railway Commission and have notified the Prime Minister that, beyond re-affirming my strong objection to the Grand Trunk Pacific scheme, I have no present intention of re-entering public life."

Laurier's deal with the Grand Trunk Railway had stipulated that the Dominion government would build the eastern half of the system, from Winnipeg to Moncton, New Brunswick, to be called the National Transcontinental. After completion, the government would lease that section to the Grand Trunk's still-to-be-built subsidiary, the Grand Trunk Pacific, which would extend across the Prairies to the port of Prince Rupert in British Columbia. However, Blair, along with many others, raised doubts that the Grand Trunk would use Moncton as its eastern terminus when it already had one in Portland, Maine.

Another story in the *Telegraph* that day carried Blair's last address as chairman to the Board of Railway Commissioners. "I feel that this infant child, at whose birth I closely attended, has been nursed by this time into some degree of strength and vigour. What little abilities and energies I possess have been applied in that direction. I think it has now got fairly well on its feet, that it will be able to move along and that it will grow in favour. I believe that this commission will grow in strength and usefulness and come to be regarded as one of the most important and useful institutions in the country." He also alluded to "prospects" in his future, suggesting that he might have other job opportunities.

Blair's warning about the Grand Trunk was repeated on October 22 in the *Saint John Telegraph*: "It is vital that the Government should not only own but operate the railway, because in no other way can you guarantee that the traffic will go through a Canadian outlet. We are spending the money, and we are getting nothing for it." Blair again trumpeted the advantage of the government-owned Intercolonial Railway system through the Maritimes.

The views expressed by papers varied according to their political alignment, some maintaining that Laurier's Grand Trunk deal was selling Eastern Canada down the river. The Maritimes fretted that they would be thrust out in the cold if the Grand Trunk project went ahead. Reports speculated that Blair would run as a Member of Parliament, that Laurier's defeat was imminent. Other papers minimized the impact of Blair's opposition and even questioned the authenticity of Blair's telegram that had been quoted in the *Saint John Telegraph*.

A week earlier, William Mackenzie and Donald Mann, the promoters behind the CN, had bought *La Presse* newspaper in Montréal. A rumoured conspiracy to turn *La Presse*, into a weapon against Laurier sent the Prime Minister scurrying to Montréal to root out the suspected perpetrators.[9]

Then, on November 1, Blair's withdrawal from the political campaign was announced. Under the headline "BLAIR ON THE RAILWAY JOB", the *Telegraph* reported: "Hon. A.G. Blair stated, before he resigned as Minister of Railways (he had resigned from that post in 1903), that he could not stand up in Parliament and attempt to steer through the Grand Trunk Pacific bill without wearing a mask and carrying a dark lantern, so great was the swindle of public money."

But, the front-page story continued, "And it is only (now in November 1904) the sudden illness in Mr. Blair's family that prevented him from taking the stump against this outrageous expenditure of

9 Ibid, p. 441-444.

the people's money." There was no other explanation. But the message was clear. Blair had withdrawn from the election campaign. He had given his final performance on the political stage.

On November 3, 1904, Laurier and his government were re-elected and the Grand Trunk Pacific deal went ahead, though it would be several years before the railway construction was completed. And, as it happened, the promoters of the CN expansion managed to beg and borrow enough financial backing to build their own transcontinental route that would link with the Intercolonial line. Canada would have not two, but three transcontinental railways, to cross its great expanse from sea to sea.

Back at the offices of the Board of Railway Commissioners, Albert C. Killam moved into the chairman's spot on February 7, 1905.[10] He was a career jurist, although he had spent a brief time in the Manitoba legislature. Born in Nova Scotia, the son of a sea captain, he had gone to Ontario to study and practise law, and then on to Winnipeg where he had risen to the position of Chief Justice of the Court of Queen's Bench in 1899. In 1903, he had become a justice of the Supreme Court of Canada.

With Killam in charge, politics were pushed aside while the Board turned to the pressing business at hand. In the next two years, the Commissioners made two major decisions regarding freight rates that illustrate the early acceptance of the principle of different rates according to region. In 1906, the Board allowed the use of the "mountain scale", a higher tariff charged by CP on freight going through British Columbia. The Board had decided that the higher rate was justified because the cost of moving freight through the Rockies was greater than elsewhere. In 1907, at a Toronto hearing on international rates, the Board reduced tariffs on freight carried in Ontario and Québec in response to lower tariffs south of the border.

In 1908, the Board assumed jurisdiction over express, telephone and telegraph tolls. The Board approved tariffs and the licensing of new companies, and settled disagreements. Not only did the new duties represent confidence in the Board, but they also underscored the link between telecommunications and the railway. The telegraph system followed the railways' rights of way and was used by the railways for signalling.

Newspapers also relied on the telegraph to transmit news. In 1910, the Board ruled that CP, which was operating a telegraph news service, was using discriminatory pricing by charging a higher price for delivering messages that originated with other news services. The Board's ruling established a basic principle of Canadian telecommunications — the separation of control of message content from control of transmission. In the telephone industry, a similar principle was used when Bell Telephone, which had a monopoly in a large part of Canada, was prohibited from providing content-based services.

Another major area of regulation for the Board was railway safety. In 1907, the Board received a petition from the Ontario Trainmen's Association expressing concerns about safety

10 Biographical information about Albert C. Killam and his successors on the Board of Railway Commissioners can be found in Annual Reports and in various editions of *Who's Who in Canada*.

regulations for railway workers. The workers had reason to be concerned. In the twelve-month period ending in March 31, 1908, the death toll in railway accidents was 529 with 1,309 people injured. Among the dead were 246 employees. An alarming 806 rail workers had been injured. The Board's Accident Branch reported that year that derailments and head-on collisions accounted for about 40 per cent of the casualties and added, "This is a state of affairs that calls for the Board's immediate attention."

The Board had already created the Railway Equipment and Safety Appliance Department, but the railway employees proposed a Uniform Code of Train Rules for Canadian Railways that would ensure that employees were well trained, trains were properly equipped and hazardous practices were eliminated. The Board invited railway companies and other interested parties to respond and, on July 12, 1909, the new Uniform Code was adopted.

On March 1, 1908, Chief Commissioner Killam died of pneumonia. It was a great loss to the Board as described in the Annual Report of that year: "Mr. Killam never spared himself and .... he was indefatigable in his efforts to carry into effect the purposes for which this Board was created. ... Mr. Killam realized that the *Railway Act* was 'on trial' and that it was well to proceed carefully and cautiously. He felt that when action was taken by the Board, there should be, as far as possible, no uncertainty in regard to the propriety and correctness of such action."

On March 28, 1908, James Pitt Mabee, a judge from Ontario's High Court of Justice, became the new chief commissioner, and then on July 29, the *Railway Act* was amended to enlarge the Board to six members from three. A new requirement stated, "Any person may be appointed chief commissioner or assistant chief commissioner who is or has been a judge of the Superior Court of Canada or of any province, or who is a barrister or advocate of at least ten years' standing at the bar of any province."

D'Arcy Scott, a prominent lawyer and the mayor of Ottawa, was appointed the Assistant Chief of the Board. Simon J. McLean, the political economist who had written the railway reports that had formed the basis for Blair's bill to create the Railway Board, was another worthy appointment. The third was Thomas Greenway, who had been Premier of Manitoba from 1887 to 1900, and for a time its Agriculture Minister, and who had firsthand knowledge of the West's attitude to railway rates. Greenway, however, was 70; he took ill upon arrival in Ottawa and died without ever sitting on the Board.

In May 19, 1909, a further amendment to the *Railway Act* gave the Board of Railway Commissioners jurisdiction over electric power rates. The Board, with its increasing workload and growing staff, began to lobby for larger quarters. (Since its early days, it had offices and a courtroom at 64-66 Queen Street in Ottawa.)

A Railway Grade Crossing Fund was introduced in 1909, to be administered by the Board with an annual injection of $200,000 from government, which would help provide devices like signs, lights and fencing to protect the public at railway crossings.

In the Annual Report of 1910, the Accident Branch stated: "Accidents for the period ending March 31, 1910, would be a record (low) had it not been for the unfortunate accident at Spanish River."

A CP train travelling from Montréal to Minneapolis derailed on January 21, 1910, about 37 miles west of Sudbury, Ontario. According to the weekly newspaper, the Renfrew Mercury, "at least half a hundred human beings had been hurled to immediate death or almost immediate destruction when a train, called the Soo Express, left the rails on a straight piece of track just east of the bridge over the Spanish River".

"The engine, tender, mail, express and baggage cars remained on the rails and the second-class car narrowly escaped going off where the rails spread." However, the next second-class car swung around to hit the bridge and burst into flames. "Following these (cars) came the diner and the first-class car, which plunged downward into the river on the north side of the bridge. The sleeper following plunged down an embankment twenty feet high, and turned over on its side at the edge of the ice." The death toll was reported at 42, though newspaper reports speculated that some bodies would never be recovered from the ice-bound river. Twenty people were injured.

Six weeks later, there was another dreadful accident. On March 4, a sudden avalanche killed 62 CP workers west of Rogers Pass. The workers had been clearing the tracks of snow from an earlier avalanche, according to a Vancouver *Province* report the next day. They were buried in snowbanks more than twenty feet high. The train's engine, sitting on the tracks, was overturned by the impact. There were no survivors.

The Board dealt with other safety concerns. In March 1911, it issued a circular to the attorneys general of the nine provinces. "During 1911, 140 persons were killed and 69 injured while trespassing on railway property. Companies are doing their utmost to prevent this unnecessary killing … but when they prosecute … many magistrates look upon the matter as so trivial that it has been found most difficult to obtain convictions. Unless offenders are prosecuted, it will be impossible to lessen this death rate."

In November 1911, the Board of Railway Commissioners and its staff, now numbering 63, moved to the newly constructed Grand Trunk Railway Station building at the corner of Rideau and Elgin Streets.

Meanwhile, shippers and railway companies continued to bicker about the various freight rates charged in different regions and for different commodities. Hopes were diminishing that the two new transcontinental railway companies would eliminate the imbalance in rates. The Grand Trunk and Canadian Northern were both struggling under the financial burden of their expansion projects, while Canadian Pacific, with good management, was continuing to operate at a profit.

In 1910, boards of trade in the western provinces had raised an outcry against what they called "discriminatory freight rates" and Chief Commissioner Mabee began an investigation into the rates and the so-called mountain scale. But Mabee did not get a chance to finish his task. On April 29, 1912, while presiding over a sitting of the Board in Toronto, the robust 52-year-old Chief Commissioner suffered an appendicitis attack and died on May 6.

Henry L. Drayton, a distinguished lawyer, left his job as counsel for the City of Toronto to replace Mabee on June 29. He was just 43, but already had made an impression in Canada's legal community. Drayton quickly set to work on the freight rates case. By November 24, 1913, hearings were wrapped up and a decision was issued on April 6, 1914.

PEOPLE, AIRPLANES AND THE R.100 AT SAINT-HUBERT, QUÉBEC, AUGUST 1930, CSTM/CN000246

The Board found that although the higher freight rates in Western Canada might be discriminatory, they were justified by the greater competition that the railway companies faced in the eastern provinces and that the rates were, in fact, reasonable.

The *Manitoba Free Press* in Winnipeg ran this headline on April 8, "RAILWAY COMMISSION REFUSES WESTERN DEMAND FOR EQUALITY OF RATES WITH EASTERN CANADA" and went on to explain: "The lowest scale in the West, namely the Manitoba standard tariff, will apply to the other two Prairie provinces and the British Columbia lake section. A somewhat higher but decreased standard is to apply to the Pacific section."

Although Manitoba was unhappy with the decision, others in the West gave it a warmer reception.

The Regina *Leader-Post* was full of praise: "The Board of Railway Commissioners, and particularly its chairman, Mr. H.L. Drayton, are deserving of credit for the comprehensive manner in which they have dealt with what was admittedly a complicated and difficult problem.

The creation of the Railway Commission was one of the best acts of the Laurier government. It has revolutionized railway matters in Canada."

The *Calgary Herald* noted "the great advantage of having a permanent Board of experts on the job." A large photograph of the handsome Chairman Drayton was carried on the front page, with a caption that explained, "This is the man who made the decision," as if he was particularly deserving of gratitude.

Meanwhile, the Board's staff was dealing with other urgent matters. Fires had been a persistent hazard along the railway lines, especially in forested areas, and on January 1, 1913, the Board appointed a full-time fire inspector.

"A condition of unusually severe drought obtained during the spring and summer season of 1914," the Annual Report for that year stated. "A total of 1,346 fires are reported as having started within 300 feet of the railway track, throughout the Dominion, during the fire season of 1914. These fires burned over a total area of 191,770 acres, of which 49,326 acres were young forest growth ... and 107,496 were merchantable timber." Of the 1,346 fires, 904 were reported to have been caused by railways. The Board issued orders to clear brush from rights of way, and to install fireguards. The Board also began to study the sparking hazards presented by certain types of coal. It suggested that oil-burning engines were less likely to emit sparks.

The Grand Trunk Pacific had completed its tracks from Prince Rupert to Winnipeg on April 7, 1914. The Canadian Northern would not finish construction of its transcontinental route until 1915. Both companies were struggling financially and made repeated pleas for government aid.

Then, as Canadians moved through the sultry days of the summer of 1914, an ominous rumble could be heard from across the Atlantic. German troops were charging through neutral Belgium in their advance on France. Great Britain issued an ultimatum for Germany to withdraw from Belgium. When the ultimatum's deadline expired on August 4, Britain declared itself at war. Canada followed suit, and suddenly — almost overnight — the country's domestic problems were shoved aside.

The hopes of the debt-laden Grand Trunk and CN for more government support or for foreign investment evaporated with the onset of war. The *War Measures Act* of 1914 conferred emergency powers on the federal cabinet.

The whole machinery of government was directed to the war effort, and gradually all facets of Canadian industry and trade — from food and clothing to fuel — fell under special regulation. As the years dragged on, the cost of supporting the war took its toll and shortages developed.

The human sacrifice was tremendous as more and more soldiers signed up for service. In its Annual Reports during the war years, the Board of Railway Commissioners carried its own honour roll, listing employees who had joined the Canadian Expeditionary Forces Overseas. Canada's workforce shrank; at the same time, industries slowed peacetime-style production, shortages developed and prices rose. Workers at home, seeing themselves at an advantage with the reduction in manpower, demanded higher wages and prices continued to climb.

THE HOPES OF THE DEBT-LADEN GRAND TRUNK AND CN FOR MORE GOVERNMENT SUPPORT OR FOR FOREIGN INVESTMENT EVAPORATED WITH THE ONSET OF WAR. THE *WAR MEASURES ACT* OF 1914 CONFERRED EMERGENCY POWERS ON THE FEDERAL CABINET.

In 1915, the railway companies applied for rate increases in Eastern Canada, and in 1916 the Board granted their demands. The railway companies themselves sought remedies to their financial woes. On October 23, 1917, the Canadian Railway Association for National Defence was formed, and railway companies began cooperating to avoid duplication of services and to deal with rail-car shortages.[11]

As the price of the First World War mounted, the Board of Railway Commissioners granted further nationwide railway rate increases in 1917. But the western provinces and agricultural organizations appealed the decision to the government. Prime Minister Robert Borden responded by making the increase effective for only one year after the war, and by imposing a war tax on CP, which was still managing to keep its accounts in the black. The increase went into effect in March 1918.

A few months later, in July, the railway companies asked for another rate increase, this time because U.S. railway workers had won a significant increase in wages and their Canadian counterparts were threatening to strike. This time, the increase was issued by Borden's government upon the Board's recommendation.

The increases came too late, however, for the Grand Trunk and the Canadian Northern. Both railway companies teetered near bankruptcy. In 1915, the Grand Trunk had reneged on the deal made with Laurier over a decade earlier to take over the National Transcontinental, which had been completed on June 1, 1915, with government funds. It also offered to hand over its western subsidiary, the Grand Trunk Pacific, to the government.

In May 1916, Borden appointed a Royal Commission on Railways. He chose the Chief Commissioner Drayton from the Board of Railway Commissioners to serve on the royal commission along with W. M. Acworth, a British railway economist, and A.M. Smith, president of the New York Central Railway. Their findings were released in May 1917. Although Smith dissented, Drayton and Acworth agreed that the CN, the Grand Trunk and the Grand Trunk Pacific should be united into a single national railway

11 Ken Cruikshank, *Close Ties*, p. 135.

with other railways that the government already owned, including the Intercolonial.[12]

A revised *Railway Act* of 1919 provided for the incorporation of the Canadian National Railways Company with a board of trustees to oversee its management. By 1923, with the addition of the Grand Trunk and Grand Trunk Pacific, the amalgamation was completed and the Canadian National Railways system was in operation.

The war alone could not be blamed for the failure of the competing railway companies. Over-building and duplication of services had crippled them with debt. The enormous growth that had been anticipated in the West at the turn of the century had not materialized. Immigration had been curtailed by the war, as had industrial development.

The war had taken a terrible toll on Canada. When peace finally arrived, the country was weighed down with enormous debt, high inflation and shortages in food and other staples. Its industries were in disarray. It had lost a large part of its workforce on Europe's battlefields. Many of those who came home were maimed in body and spirit.

The Winnipeg General Strike, in 1919, lasted from May 15 to June 25, involved more than 30,000 workers, and resulted in a violent clash with the Royal NorthWest Mounted Police. Thirty people were injured and one died. Other strikes broke out across the country that summer.

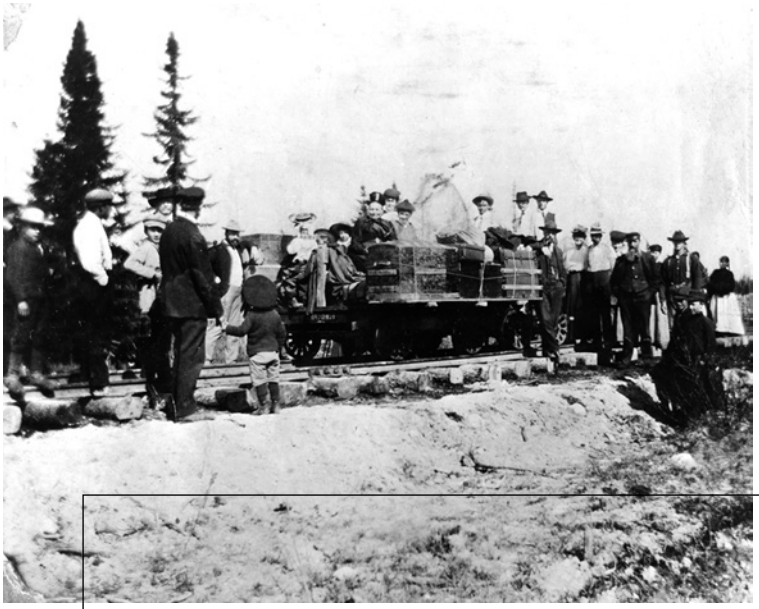
At the Board of Railway Commissioners, changes were afoot. Chief Commissioner Drayton had been granted a knighthood for his war effort. On August 1, 1919, he left the Board to become finance minister in Borden's government. The next day he was replaced by Frank Carvell, who had just jumped ship from his post as Public Works Minister.

The new chairman was popularly known as Fighting Frank Carvell. He had none of Drayton's polish or charm. At 57, he was a lawyer and a politician who, after a brief excursion to the New Brunswick legislature in 1899, had resigned to run federally. He lost in the election of 1900, but won in 1904 and sat with Laurier's government. He then broke with Laurier over the conscription issue and joined Borden. Carvell was brusque in demeanor, a legacy from his early training in the Canadian militia, and had a reputation for being outspoken and feisty. His character was perhaps not ideal for a judicial position.

The railway companies continued to seek increases to their rates. Although CP was still operating in the black, the higher cost of labour and fuel was hurting all the railway companies. When Arthur Meighen took over the government on July 20, 1920, there was an application from the railway companies for a 35 per cent advance before the Board of Railway Commissioners. But objections had been raised by shippers and regional interests.

Carvell called for a Board hearing in Ottawa for August 10. He refused requests to hold hearings around the country on the issue. An article in the *Manitoba Free Press* on August 6, 1920, offered some reaction to Carvell's decision: "Curtly declining to consider the request of the Calgary board of trade for a western sitting of the Railway Commission before applications for rates increases are disposed of, and charging

12 William T. Jackman, *Economics of Transportation*, p. 688-9.



FIRST TRAIN INTO THE PAS- RAILROAD EMPLOYEES AND PASSENGERS WITH LUGGAGE, THE PAS, MANITOBA, 1908, CSTM/CN002526

his telegram 'collect,' Hon. Frank B. Carvell, chairman of the Railway Commission, wired the Board yesterday as follows, 'Telegram received. All principles therein set forth can be argued in Ottawa as well as in the West.'" The Free Press story continued, "His lack of courtesy, and his departure from the universal business practice of prepaying messages of this character, cause widespread comment."

Carvell wrapped up the rates hearing by August 21, and issued a judgment on August 27, raising rates between 35 and 40 per cent. Provincial, municipal and shipping representatives appealed to the government. Prime Minister Meighen asked the Board to review its decision, although he did not raise any real objections to it. Upon review, the Board restated its decision. The Board was displaying its independence and resistance to political pressure, a laudable response, but the shippers were not appeased.[13]

13 Both A.W. Currie's *Economics of Canadian Transportation* and Ken Cruikshank's *Close Ties* deal at some length with various freight rate decisions.

In the spring of 1921, at the request of Cabinet, Carvell set out with Commissioner A.C. Boyce to hold hearings in Western Canada on rate equalization, that is, charging shippers the same rates no matter in what part of the country they did business or what commodity they shipped. The hearings that followed revealed just how impossible an equalization scheme would be in a country with so many diverse regional interests. It was becoming painfully obvious that there would be no satisfactory solution, within the Board's regulatory powers, to the divergent regional interests and the profit objectives of the railway companies. Carvell, for his part, made some public speeches defending previous Board decisions, and was criticized for expressing his opinions so openly. He was straying from the impartiality required in his position.[14]

The governments of Arthur Meighen and his successor, William Lyon Mackenzie King, continued to grapple with the equalization of freight rates. At the same time, the Canadian economy entered a downturn that lasted into the mid-1920s. The railway companies reduced some rates of their own accord and the railway commission lowered some more.

In 1922, the government appointed a special committee to study the Crowsnest Pass Agreement of 1897, in which CP had agreed to certain rate reductions. The committee restored some parts of the original Crow agreement — which had been lifted during the war — to reduce rates for shippers.[15]

In 1923 the Board, at the request of cabinet, reduced railway rates on grain exports from Vancouver.

On August 9, 1924, Frank Carvell died amid a clamour for an investigation of the Crow rate.

Prime Minister Mackenzie King appointed Harrison A. McKeown, the chief justice of New Brunswick's Supreme Court, to replace Carvell. McKeown had served in the New Brunswick legislature as Solicitor General and Attorney General. In 1908, he was appointed a justice of the province's Supreme Court and later Chief Justice. He had also taught law, and had been dean of the law faculty at the University of New Brunswick from 1922 to 1924. McKeown was 61 when he joined the Board and he soon found problems of his own.

In October, after a seven-day hearing, the Board decided to help railway companies by dispensing with the Crowsnest Pass Agreement, despite the 1922 statute that had reinstated the relatively low Crow rate on grain.

An appeal to the Supreme Court by the western provinces resulted in a ruling in 1925 that the Board could not drop the Crow rate. Railway companies could, however, use the narrow interpretation of the agreement as set in 1897. In response, King's government stepped in to cancel the Crow-based rates, except those on grain and flour. Parliament also ordered the Board to hold a general inquiry into other rate issues.[16]

14 Cruikshank, p.151-3.
15 Cruikshank, p.164.
16 Cruikshank, p.186-9.

On September 2, McKeown and Commissioner Frank Oliver, a Westerner who had founded the Edmonton Bulletin, approved fixing the grain rates to Vancouver based on the Crow rate. They did this despite the opposition of three other Board members, who had made a decision on the same issue in 1923. Simon J. McLean, who had been with the Board for 17 years, A.C. Boyce and Calvin Lawrence, were concerned, in fact, by the lack of impartiality in McKeown's decision. McLean summed up their objection "that fairness and reasonableness of the rate is to be determined on the facts after due enquiry; that the order was issued on a record partially heard and incomplete."[17]

A new method of answering the needs of the shippers and the railway companies was found in the *Maritime Freight Rates Act* that was adopted in 1927. The Act reduced by 20 per cent the local tariffs and rates on freight originating in the Maritimes and bound for other parts of Canada. The Act also allowed for the compensation of railway companies for any losses resulting from the reductions. The Board was given the task of determining the annual compensation for the railway companies.

Also in 1927, the Railway Board issued a decision in the General Rates Investigation by which it maintained the higher mountain tariff and transcontinental rates to interior points; it also ordered a lower rate on grain over the Canadian National route from the West to Québec City, and required railway companies to adopt a more liberal interpretation of the 1925 grain legislation.

In 1929, approval of tolls for international bridges and tunnels was added to the Board's jurisdiction.

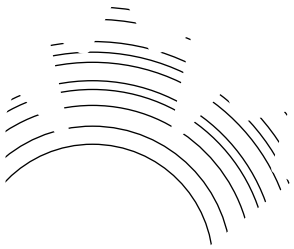
In the Annual Report for that year, the Board stated that the fire season was one of the worst seen in 40 years in the Prairie provinces. What the report described as a "long period of extreme drought and high winds in the West" resulted in a poor grain crop that fall.

There was more bad news to come. At the end of October, the Wall Street stock market suffered a drastic fall in values. On the same day, the Winnipeg Grain Exchange was hit by falling prices. The Great Depression had arrived. Hundreds of thousands of Canadians were unemployed, some starved, others lost their homes, and families were broken apart.

The government looked for ways to offer assistance. By 1933, more than a million Canadians were on government-funded relief. Make-work projects were established to give jobs to the unemployed. Among the projects were several supported by the Railway Grade Crossing Fund. From 1930 to 1938, the government increased its financial allotment to the Fund, which had been administered by the Board since 1909, to contribute to safety improvements at highway crossings, now with the added objective of providing work.

Railway companies also made use of government relief funds to clear the railway rights of way. A huge clearing effort in 1936 led to this report from the Board's fire inspector: "During the season of 1936 the railways ... carried out a large

17 Board of Railway Commissioners' Annual Report, 1925.



A NEW METHOD OF ANSWERING THE NEEDS OF THE SHIPPERS AND THE RAILWAY COMPANIES WAS FOUND IN THE *MARITIME FREIGHT RATES ACT* THAT WAS ADOPTED IN 1927. THE ACT REDUCED BY 20 PER CENT THE LOCAL TARIFFS AND RATES ON FREIGHT ORIGINATING IN THE MARITIMES AND BOUND FOR OTHER PARTS OF CANADA. THE ACT ALSO ALLOWED FOR THE COMPENSATION OF RAILWAY COMPANIES FOR ANY LOSSES RESULTING FROM THE REDUCTIONS. THE BOARD WAS GIVEN THE TASK OF DETERMINING THE ANNUAL COMPENSATION FOR THE RAILWAY COMPANIES.

amount of right-of-way clearing with special gangs recruited from the ranks of the unemployed who had heretofore been domiciled in labour camps throughout the country. This work will have beneficial results in greatly reducing the fire hazard."

The next year, the fire inspector reported, "A minimum of major clearing of rights of way was carried on during 1937. Work in the previous year accounted for 1,700 miles, on both sides of the tracks." To no one's surprise, the number of fires along railway lines was greatly reduced that year.

Meanwhile, McKeown retired on March 1, 1931, as chief of the Railway Board. Charles P. Fullerton, a justice of the Manitoba Court of Appeal, was appointed on August 13, 1931 to replace him.

In November, in the depth of the Great Depression, R.B. Bennett's government appointed a royal commission to look into the condition of Canada's transportation system. Mr. Justice Lyman Duff, of the Supreme Court of Canada, was named head of the commission. The CN system was suffering financially and the government sought a solution to the public railway's problems.[18]

18 A.W. Currie, p. 448-9.

In 1932, Sir Henry Thornton resigned as head of the CN, a position he had held for close to ten years, amid rumours of lavish spending. The next year, the government set up a three-member board of trustees to govern the CN, and asked the 64-year-old Fullerton to head the board.[19]

At the same time, the government adopted the *Canadian National-Canadian Pacific Act* of 1933 to encourage cooperation and coordination of the railway system. In the coming years, the two railway companies, crippled by the economic standstill and loss of customers, would agree to pool certain passenger services, and eliminate unprofitable duplication of services.

In 1933, the Board of Railway Commissioners assumed jurisdiction over the abandonment of rail lines, in which they were given discretion to weigh the railways companies' financial responsibilities against the users' transportation needs.

During 1934 and the first half of 1935, no chief was appointed to the Railway Board, and the position was temporarily filled by Assistant Chief Commissioner Simon J. McLean, who had been one of the original designers of the Board, and now had served on it for more than 25 years.

On August 12, 1935, Hugh Guthrie was appointed as Chief Commissioner by Prime Minister R.B. Bennett. A lawyer from Guelph, Ontario, Guthrie had a long career in politics, entering the House of Commons in 1900. Guthrie was 69 years old, and the Board had entered its fourth decade.

Railways were no longer the only means of transporting freight or passengers across the country. Road construction — including major projects like the Trans-Canada Highway — and technological advances were making motor vehicles a viable source of competition.

The civilian aviation industry had also been developing in Canada since World War I. Bush-flying had long been an accepted method of carrying passengers and goods to areas of Canada's North where no other transportation was available. By the mid-1930s, air travel was becoming more common with several small airline companies operating in Canada.

In 1935, a plan for a national airline was being

19 Donald MacKay, *The People's Railway: A History of Canadian National,* p.114.

considered by Bennett's government. However, a fall election brought William Lyon Mackenzie King to power as prime minister, and the transportation portfolio was then entrusted to Clarence Decatur Howe.

Howe had been born in the United States and trained as an engineer. In Canada, he had made a successful business of building grain elevators. As the Minister of Railways, Howe disbanded the board of trustees that had been overseeing the CN, and dismissed Fullerton, the former Chief of the Board of Railway Commissioners.

Then he set about reforming Canada's transportation system. The *Transport Act* of 1936 created the first federal Department of Transport with Howe at its helm. The department consolidated the functions of three departments: Railways and Canals, the Civil Aviation section which had been under the umbrella of National Defence, and the Marine Department.

In 1938, the *Transport Act* was passed creating the Board of Transport Commissioners from the old Board of Railway Commissioners.

The era of railway supremacy had ended. It was time to move on.

Symbolic of that change were two retirements announced in the final Annual Report of the Board of Railway Commissioners: Simon J. McLean, who had written the reports at the turn of the century that had assisted A.G. Blair in designing the *Railway Act* of 1903, retired as Assistant Chief Commissioner to become a technical adviser. And A.G. Blair Jr., the son of the founder and first chairman of the Board, retired as legal counsel on November 28, 1938. He had been with the Board since 1904.

ENGINES OF CHANGE

THE BOARD OF TRANSPORTATION COMMISSIONERS, 1938 TO 1967

+ July 1, 1942, Canadian Pacific Air Lines started operations.

+ August 1950, railway unions held the first nationwide strike in Canada — legislation was passed to send the strikers back to work after nine days.

As Canada approached its 71st birthday in the spring of 1938, newspapers delivered daily reports of the latest skirmishes in Spain's civil war and of the growing menace of fascism as Adolf Hitler's shadow crept ominously across Europe.

At home, the national economy was shaking off the lethargy that had gripped it for almost a decade in the Great Depression.

On May 17, the Canadian Press reported that "more than 585,000 motor vehicle licences have been taken out in Ontario this year, 61,000 more than in the same period last year."

A few days later, the *Ottawa Citizen* reported that "three days ahead of schedule, the Dibblee Construction Company started work this morning on grading Uplands Airport for Trans-Canada Air Lines, preparatory to laying two runways. ...Work on the airport is being rushed so that the runways will be ready by June."

A TCA CANADAIR DC-4M *NORTH STAR* FLYING OVER KINLEY AIRPORT, BERMUDA, 1950, CSTM/CN000261

On July 2, the *Citizen* reported that the federal cabinet was still working, although Parliament had been prorogued the day before, on the Dominion holiday. "Governor General Lord Tweedsmuir was on hand for the prorogation ceremony at midnight Thursday night (June 30) but when it was found impossible to wind up business by that time, Prime Minister Mackenzie King advised him not to postpone his vacation trip to England... Mr. Justice Cannon, acting as deputy to the Governor General, prorogued the session at 3:40 p.m. (on July 1)."

The House had been occupied with the passage of several bills in its last days before the summer break. One of the bills passed was the *Transport Act*, which created the Board of Transport Commissioners with authority over inland waterways and airlines, along with jurisdiction over railways, telegraphs, telephones, and express companies, inherited from its predecessor, the Board of Railway Commissioners.

The press made little mention, during those formative days, of the man who had directed the Board's creation. But for the next 19 years of its existence, the Board of Transport Commissioners would constantly be aware of C.D. Howe's presence and of his power over transportation policy.

Howe was 49 years old in 1935 when he won the Port Arthur riding in Northwestern Ontario. Mackenzie King, recognizing him as a shrewd, tough-minded businessman, pulled him into his new cabinet.[20]

By 1938, as the Minister of Transport, Howe had made major policy changes to the transportation industry. He had no patience, however, for the political life and he made no bones about it. A typical remark was: "I do not think I'm doing anything useful when I sit in the House and listen to the kind of blather that's being talked here."[21]

Despite his shortcomings in diplomacy, Howe was one of Mackenzie King's most successful cabinet ministers. In 1937, he had spearheaded the organization of operating and ground services for Canada's first transcontinental air system. He then oversaw the creation of Trans-Canada Air Lines, the country's first publicly owned airline, as a subsidiary of the publicly owned CN, and with a monopoly over the international and transcontinental routes, and over airmail service. Throughout his political career, TCA would remain Howe's favourite project.

According to the *Transport Act*, the Board was given authority over air and water transport, but its powers over these two modes were much more limited in scope than over railways. For instance, with inland water transportation, the Board had jurisdiction over licensing and rates, but not over other matters. In the aviation sector, the Board had power of approval for licensing and rates for air service between specified points in Canada, or between specified points in Canada and outside, but the actual points and places of its jurisdiction would be determined by cabinet.

The *Transport Act* also gave the Board the power to approve agreed-upon charges between carriers

20 Reginald Whitaker, *The Government Party: Organizing and Financing the Liberal Party of Canada, 1930-1958*, p. 88 and p.180.
21 John Robert Columbo, *Columbo's Canadian Quotations*, p. 269.

and shippers. This section of the Act allowed the heavily regulated railway companies to compete in specific areas with the unregulated truckers, for instance, by making agreements for special rates with large-volume shippers for a minimum quantity of freight.

The new Board continued with the same commissioners who had been appointed to the previous Board, and with the same staff.

The Annual Report of 1939 describes the added workload: "A great deal of correspondence, discussion and detailed work has been necessary in respect to the licensing provisions of the *Transport Act*, particularly so in respect to aviation," wrote W.E. Campbell, director of the Traffic Department. "A large amount of educational work has been necessary in the preparation and the filing of tariffs; also, it has been necessary to investigate alleged violations of licences, tariffs, etc., much of which might have been avoided had there not been such an extraordinary lack of cooperation among the various companies, and a greater appreciation of the necessity to comply with the principles laid down in the Act."

The Annual Report made no mention of the cataclysmic events of the late summer of 1939 that would take Canada into another world war. For several years, tensions had been building in Europe as Germany's Hitler led a campaign of aggression against neighbouring countries. In 1938, there were plans afoot for a British Commonwealth Air Training program to be set up in Canada. When Hitler invaded Poland in the fall of 1939, there was no turning back. On September 10, 1939, Canada declared war on Germany.

In the 1940 Annual Report, Chief Engineer D.G. Kilburn wrote that besides the normal work of the department, "war conditions have imposed additional duties. Many new industrial war plants and air fields have been constructed and existing plants enlarged. The consequent increased traffic on the railways brought about additions to existing railway track facilities and, to meet growing war-time demands for railway transportation services, further additions are under consideration. These increased facilities involve examination, inspection and approval."

World War II created a boom in Canada's transportation industry. By the second year of the war, CN reported revenues of over $300 million and, for the first time in many years, it was not dependent on the public purse.[22]

Meanwhile, the approval of freight rates was removed from the Board's jurisdiction during the war. As noted in the Annual Report of 1941, "Order in Council P.C. 8527 of November 1st, 1941, imposed restrictions upon the rates charged for transportation and communication services. The facilities of this department are being utilized to assist the Wartime Prices and Trade Board in carrying out the provisions of the Order in Council." The government froze prices and wages to the level prevailing between September and October 1941.

As the Board reiterated in later war-time reports, "There can be no increase in any rates or charges for transportation of goods or passengers [...] without the concurrence of the Wartime Prices and Trade Board."

22 G.R. Stevens, *History of the Canadian National Railways*, P. 383.

Meanwhile, the Board carried on with its regular duties of issuing licenses, approving abandonment and construction of railway lines, administering the Railway Grade Crossing Fund, and investigating railway accidents and fires.

On November 3, 1939, Hugh Guthrie, the Board's chief commissioner, died at the age of 73. Guthrie's successor was Colonel James Albert Cross who had been Saskatchewan's attorney general from 1922 to 1927, under two premiers. In World War I, he had served as an officer with the 28th Battalion and had been made a companion of the Distinguished Service Order.

On April 1, 1940, the *Ottawa Journal* described Cross as "a modest soldier-lawyer, who once was elected to the Saskatchewan legislature without making a single speech" and "at 63, he looks a good ten years younger."

On April 9, C.D. Howe became Minister of Munitions and Supply, a department specifically created to give the government control over industry during the war years. He also kept the post of Minister of Transport.

Throughout his career, Howe maintained a protective interest in Trans-Canada Air Lines (TCA). He considered the airline his own creation, and watched closely any Board decisions that affected the air industry. (In fact as late as June 20, 1950, when Howe was Minister of Trade, Opposition Leader George Drew passed a motion in the House of Commons to have jurisdiction over TCA turned over to the Transport Minister, and out of Howe's control. The motion was voted down.)

The Board's role in aviation was unclear from the first. The *Transport Act* stipulated that the Board had jurisdiction over points and places that were specifically named by cabinet. In several instances, when the Board made a decision regarding an air licence, the cabinet overruled the Board by "unnaming" the route, and thus removing it from the Board's jurisdiction.

Also, if the Board turned down a licence for an air operator to fly to a place which had been named by cabinet, the ruling could be circumvented by the air operator flying to an "unnamed" place near the named place.[23]

Soon after TCA was created, Canadian Pacific Railways, which briefly had been included in a proposal to create the national airline, decided to create its own air service. On July 1, 1942, Canadian Pacific Air Lines started operations. It had bought up several air routes from smaller operations, and with Board approval had air licences that expanded its territory into several markets.

One of its purchases was an air company that flew between Victoria and Vancouver. At the time, TCA did not fly between the two cities because there was not a proper landing site at Victoria for its larger planes. But when an airport was built that TCA could use, it applied to the Board of Transport Commissioners for a licence to deliver mail and provide passenger service to Victoria.

The Board was faced with a difficult decision that would, on the one hand allow the duplication of services, and on the other hand block the publicly owned TCA from fulfilling its

23 A.W. Currie, *Economics of Canadian Transportation*, p. 544.

transcontinental mandate. The Board ruled that TCA could deliver mail between Vancouver and Victoria and also that it could provide air passenger service, but only as a continuation of its transcontinental route. That left the local passenger service, which represented the majority of the traffic, to Canadian Pacific Air Lines.[24]

THE BOARD'S ROLE IN AVIATION WAS UNCLEAR FROM THE FIRST. THE *TRANSPORT ACT* STIPULATED THAT THE BOARD HAD JURISDICTION OVER POINTS AND PLACES THAT WERE SPECIFICALLY NAMED BY CABINET. IN SEVERAL INSTANCES, WHEN THE BOARD MADE A DECISION REGARDING AN AIR LICENCE, THE CABINET OVERRULED THE BOARD BY "UNNAMING" THE ROUTE, AND THUS REMOVING IT FROM THE BOARD'S JURISDICTION.

In the House of Commons, on June 11, 1944, Howe expressed his opinion of the Board's performance: "The Board of Transport Commissioners is bound by the *Transport Act* and is concerned chiefly with railway problems. The effect of the administration of the Board was this. In 1938, when the Act was passed, there were a great number of independent air operations in this country. Four years later, there was only one independent air operation. Every other air operation in the Dominion was owned and operated by the railway companies." Canadian Pacific, under Board approval, had bought more than 40 air operations in those years. Howe was concerned that the private railway company had been allowed to purchase such a large share of the domestic air services.

On the matter of the Victoria-Vancouver route, Howe said: "The Board ruled that Trans-Canada Air Lines must operate from Vancouver to Victoria with empty seats, because there was another air operation connecting the two centres. The fact that the other operation was overcrowded and could not begin to handle the traffic, and could not obtain planes sufficient to carry the traffic did not weigh with the Board."

On September 11, 1944, the *Transport Act* was amended to provide for "the removal of commercial air services from the jurisdiction of the Board of Transport Commissioners."

The *Aeronautics Act*, at the same time, created a new Air Transport Board to provide licensing and regulatory functions. In the House of Commons, Howe explained the new *Aeronautics Act*: "A much more scientific as well as a fairer method, a method more in keeping with the supremacy of Parliament is being adopted."

24 Ibid, p. 549.

A TCA CREW ABOARD A CANADAIR DC-4M NORTH STAR, 1950, CSTM/CN000256

Mackenzie King had made an earlier policy statement about the airline industry. "Competition between air services over the same route will not be permitted," he had baldly stated in the House of Commons on April 2, 1943. And although he had added that there would be areas where private enterprise would participate, Mackenzie King made it clear that the government's air policy was to effect for Canada "a freedom of action in international relations because it was not limited by the existence of private interests in international air services." At the end of World War II, the government wanted to control the air industry and ensure its development, avoiding the problems the railway industry had suffered at the hands of private enterprise.

The Air Transport Board's role was clearly laid out in the Act as an administrative body, subject to close ministerial control. The Air Transport Board could issue licences and regulations, but only subject to the approval of the Minister of Transport. Also, the Air Transport Board was responsible for recommending policy changes to the Minister. In effect, it had none of the independence of the Board of Transport Commissioners.

Another policy change introduced by C.D. Howe involved ownership of the airlines by the railway companies. On March 17, 1944, Howe stated: "It is becoming obvious that ownership of airways by our competing railway systems implies extension of railway competition into transport by air,

regardless of the government's desire to avoid competition between air services. The government has decided that the railway companies shall not exercise any monopoly of air services. Steps will be taken to require our railway companies to divest themselves of ownership of airlines to the end that, within a period of one year from the ending of the European war, transport by air will be entirely separate from surface transportation."

The effect of requiring CP to divest itself of the Canadian Pacific Air Lines would be considerable expense and time spent on the reorganization. As was apparent in this and other policy statements, Howe was determined to advance the cause of the publicly owned Trans-Canada Air Lines at the expense of private enterprise. (The divestiture policy was reversed, however, in 1946 and CP was allowed to keep its airline.)

The first chairman of the Air Transport Board was R.A.C. Henry, who had worked for CN and had been deputy minister of Railways and Canals in 1929 to 1930. In 1940, he had assisted in the development of the Department of Munitions and Supply. The two other members were Air Vice Marshall Alan Ferrier of the Royal Canadian Air Force, an aeronautical engineer, and J.P.R. (Roméo) Vachon, a pioneer in the Canadian aviation industry with experience in both flying and aeronautical engineering.

In future years, many of the members appointed to the Air Transport Board were drawn from the civil service. This practice reinforced the already close relationship between the Board and government.[25]

The Air Transport Board was not required to submit its own Annual Reports, another indication of its lack of autonomy. However, it did issue one report for the period September 11, 1944 and December 31, 1946. That document was directed to the Minister of Reconstruction and Supply, a new position created for C.D. Howe in late 1944.

That Air Transport Board Annual Report, which was published in 1947, clearly advanced the government's thinking: "In accordance with laid down policy, direct competition is not permitted on scheduled air routes. The reason is that, at the present stage in the development of air transportation in Canada, the volume of traffic is such that there is not room for competing services and it is considered uneconomical to try to divide the small available business between two or more carriers. While at some later date a policy of competition might be justified, at the present time it would be disastrous and is considered to be against the public interest."

As Minister of Reconstruction, Howe had a mandate to direct the post-war reorganization of industries and manpower. He still held the portfolio for Munitions and Supply, and was on his way to earning the sobriquet "Minister of Everything."

Howe was also still in a position to direct transportation policy after the war. The Board of Transport Commissioners' Annual Report, covering the period of 1945, stated: "During the year, the Board of Transport Commissioners was asked by the Department of Reconstruction to make a survey of possible railway crossing eliminations at certain priority points

25 Fred Paul Gosse, in his unpublished thesis, *The Air Transport Board and Regulation of Commercial Air Services*, for Carleton College, Ottawa, April 1955, commented that civil servants were posted to the Air Transport Board. Two chairmen of the Air Transport Board, J.R. Baldwin and W.J. Matthews, were both senior civil servants in the Department of Transport.

throughout Canada, having in mind public convenience and necessity, together with possible post-war employment."

A Bureau of Transportation Economics was created in 1946 to provide economic and statistical studies for both the Board of Transport Commissioners and the Air Transport Board.

Wage and price controls were dropped at the end of the war, and soon a clamour for higher wages was heard. In 1946, both the Canadian National and Canadian Pacific railway companies raised their wages in response to union agitation.[26]

Inevitably, the Railway Association of Canada, representing CN and CP, applied for a general increase in freight rates to offset the increased operating costs and declining volume of post-war traffic. After 150 days of hearings, the Board rejected the railway companies' application for a 30 per cent increase.

On March 30, 1948, the Board settled on an increase of 21 per cent, using a cost-revenue methodology. Seven of the nine provinces (not Ontario or Québec) appealed the decision to cabinet, claiming that the Board had lost the public's confidence by its methodology. While the government reviewed the decision, it asked the Board on April 7, 1948, to conduct a general freight rates investigation. Meanwhile, the Railway Association sought another 20 per cent increase from the Board.[27]

On June 30, 1948, Chief Commissioner Cross, now 72, in poor health and worn down by the contentious freight rates issue, resigned. There was nothing in the local papers on July 1, 1948, about Cross's resignation — or about his replacement, Justice Maynard Brown Archibald. The big news on that day was Prime Minister Mackenzie King's announcement in the House of Commons that he would be retiring.

Justice Archibald had been appointed to the Supreme Court of Nova Scotia in 1937, and was appointed to the Exchequer Court of Canada on the same day that he was appointed to the Board of Transport Commissioners. The Board's Annual Report for 1948 explained that an amendment to the *Railway Act* that year provided that the Chief of the Board of Transport Commissioners would be a judge of the Exchequer Court (now the Federal Court).

Meanwhile, the Board continued to hear the Railway Association's second request for a freight rate increase. The Board decided to give an interim increase of 8 per cent on July 27, 1948. CP appealed to the Supreme Court and the Court ruled that the Board should make a final decision.

In October 1948, the government rejected the appeal by the provinces in what came to be known as the 21 per cent case, the rate increase originally approved by the Board in March 1948, and asked the Board to review its decision. The government also decided to set up a royal commission to study transportation. In January 1949, W.F.A. Turgeon, formerly a judge in Saskatchewan, was appointed to head a royal commission that would study freight rates and transportation policy.

26 A.W. Currie, p. 403.
27 Ibid. p. 101-152. Currie gives a good explanation of the series of freight rate cases heard between 1946 and 1951.

IN OCTOBER 1948, THE GOVERNMENT REJECTED THE APPEAL BY THE PROVINCES IN WHAT CAME TO BE KNOWN AS THE 21 PER CENT CASE, THE RATE INCREASE ORIGINALLY APPROVED BY THE BOARD IN MARCH 1948, AND ASKED THE BOARD TO REVIEW ITS DECISION. THE GOVERNMENT ALSO DECIDED TO SET UP A ROYAL COMMISSION TO STUDY TRANSPORTATION. IN JANUARY 1949, W.F.A. TURGEON, FORMERLY A JUDGE IN SASKATCHEWAN, WAS APPOINTED TO HEAD A ROYAL COMMISSION THAT WOULD STUDY FREIGHT RATES AND TRANSPORTATION POLICY.

And the Board, following the Supreme Court order, authorized a freight-rate increase of 16 per cent, but again the Railway Association returned, claiming that the Board had miscalculated the shortfalls. The Board's final decision was a 20 per cent increase announced on July 27, 1949.

In 1948, the Board had also dropped the mountain scale (established in 1914 as a higher railway rate for traffic in the Rockies) in response to an application from British Columbia.

It was a tumultuous time for the railway companies and by extension for the Board of Transport Commissioners. The combination of fierce competition from trucking and air operations exacerbated by higher operating costs was putting extreme pressure on railway companies, which were already shackled by stiff regulations.

Meanwhile, the shipping industry had experienced a huge burst of expansion in the war years, most of it created by the federal government. In 1947, in an effort to stem the post-war decline in the industry, the government created the Canadian Maritime Commission. The Commission's responsibilities included administering subsidies and recommending policies to the Minister of Transport.

The Board of Transport Commissioners continued to approve licences and rates for inland water transport, and still had jurisdiction over telegraph, telephone and express companies. In 1949, it was given jurisdiction over licensing of oil and gas pipelines. But the majority of the Board's workload remained railway regulation.

In August 1950, railway unions seeking higher wages and better benefits held a nationwide

strike, the first in Canadian history. Legislation was passed to send the strikers back to work after nine days. The government appointed Mr. Justice R.L. Kellock, of the Supreme Court of Canada, as an arbitrator to settle the dispute. After hearing both sides, Kellock granted a wage increase and directed that a 40-hour, five-day week should be instituted as of June 1, 1951. This ultimately would put more pressure on the railway companies to increase their rates.[28]

The Board of Transport Commissioners, meanwhile, was the target of criticism from various quarters for its handling of the railway problems. A particularly scathing attack against the Board was delivered in the House of Commons on June 21, 1950, by Opposition Leader George Drew. At this point, the same party had remained in power in Ottawa for 15 consecutive years and Louis St. Laurent had been the prime minister for two of those years.

Drew began with a denunciation of the Board of Transport Commissioners, saying that "it had demonstrated itself to be incompetent by its own actions during this extended period (of freight rate hearings)." Then he launched into a long diatribe liberally laced with the word "incompetent", and recommended that the Board be disbanded and that a new board be created. In response to the criticism, it was noted in the House that Justice Archibald, the Board's chief Commissioner, was "gravely ill."

The report from the Turgeon Royal Commission was tabled in the House of Commons on March 15, 1951. It recommended an equalization of freight rates; that the Board of Transport Commissioners establish a uniform system of classification of rates throughout Canada, excluding the Maritimes; that the Board establish a uniform system of accounts and reports for the railway companies; and that the lower rates on grain and flour as set out in the Crowsnest Pass Agreement of 1897 continue. It also recommended that the Board deal with applications at a speedier rate.

On October 30, 1951, Transport Minister Lionel Chevrier dealt with more criticism about the Board of Transport Commissioners. The resignation of the 60-year-old Justice Archibald was set for the next day, and Opposition members took the opportunity to attack the Board again. In defending the Board's members, Chevrier blamed the problems on staff shortages.

"The Board is lacking in expert staff. That is a fact," Chevrier told the House of Commons. "The Board has not the required traffic advisers that it should have. ... Traffic experts are almost impossible to find in this country."

The new Chief Commissioner was John D. Kearney, a lawyer and career diplomat.[29] He had held several foreign posts that had earned him a reputation as an incisive and astute arbitrator. He had headed the Canadian mission in Dublin from 1941 to 1945, and, in 1947, became the first Canadian High Commissioner to India after that country achieved independence. Kearney's appointment to the Board coincided with his appointment as a Justice of the Exchequer Court of Canada. An amendment to the *Railway Act* in

28 Ibid, p. 405.
29 *Who's Who in Canada*, 1957. The Board of Transport Commissioners Annual Reports also carried some biographical information about the Board chairmen.

1952 would make the appointment of Chief Commissioner an automatic appointment to the Court of the Exchequer.

In January 1952, the Board began hearings on rate equalization. After a long series of consultations, equalization on class rates finally went into effect in March 1955.

A new department of Accounts and Cost Finding was set up by the Board to handle the uniform classification of rates and associated accounting systems.

While the Board continued to deal with freight-rate applications, other issues were brewing.

In 1949, Newfoundland joined Confederation. The new province's railways became part of the CN system, and eventually decisions about the province's freight rates and other railway issues fell within the Board's jurisdiction.

In 1955, the *Railway Act* was amended to increase Parliament's annual appropriation of funds to the Railway Grade Crossing Fund to $5 million. The amendment was based on a report submitted on May 10, 1954, after the Board carried out a Canada-wide investigation of railway-highway crossing problems.

An amendment to the *Transport Act* in 1955 removed the necessity of the Board's approval for agreed charges. The amendment gave greater freedom to carriers to make specific agreements on charges, the only requirement being that the charges be filed with the Board 20 days prior to their taking effect.

The government, in 1955, commissioned Walter Gordon, an accountant who had worked for the Bank of Canada and the Finance Department, to head a royal commission on Canada's

VICTORIA INNER HARBOUR LOOKING SOUTHEAST, BRITISH COLUMBIA, 1947, PHOTOGRAPHER: W. ATKINS, CSTM/CN000238

economic prospects. One section of that study was dedicated to transportation, under the supervision of J.C. Lessard, a former deputy minister of transport. The report, issued in 1956, highlighted the changing trends in passenger and freight transportation in the 25-year period from 1928 to 1953. In 1928, almost 60 per cent of passenger travel had been by private automobile while close to 40 per cent used rail transport. In 1953, close to 80 per cent was by private car and just over 10 per cent by railway. Buses represented close to 7 per cent of passenger travel in 1953 and airplanes 3 per cent.

Similarly, the 1950s saw widened freight competition with the expansion of long-haul trucking companies, the introduction of gas and oil pipelines and the construction of the St. Lawrence Seaway, which allowed larger ships to travel from Montréal through the Great Lakes as far as Thunder Bay.

The discovery of oil in Leduc, Alberta, on February 13, 1947, had created a new domain over which the Board was given jurisdiction — oil and gas pipelines crossing interprovincial or international boundaries. Other oil fields had been opened up in Canada in previous years, but the Leduc find set off a burst of oil development. The Board's Annual Reports document a succession of applications and approvals for pipeline construction over the next few years.

As the wealth of Alberta's oil and gas resources became apparent, the search for profitable markets got under way. Although U.S. markets could easily be reached over Alberta's southern border, Ottawa expounded a policy of serving Canadian markets first. In practice, however, companies were allowed to build pipelines to both American and Canadian destinations because Canadian markets alone could not support the costs of constructing the lines.

In 1953, C.D. Howe, now in the Trade and Commerce portfolio, seized upon a scheme put forth by TransCanada PipeLines, to build a gas pipeline from Alberta to Ontario and Québec. Howe envisioned the cross-Canada pipeline as a national project reminiscent of previous transcontinental endeavours, like the Canadian Pacific Railway in 1885.[30]

In 1954, TransCanada PipeLines applied for a permit to construct the 2,188-mile pipeline from the Alberta-Saskatchewan border through Manitoba and Ontario as far as Montréal. The Board of Transport Commissioners granted the application subject to the company satisfying the Board that it had financing for the project by December 31, 1954, and that it had a completion date of December 31, 1957.

TransCanada soon realized, however, that the cost of construction was beyond its means. The company, which was partly American-owned, applied to Ottawa for financial aid, but was

30 Two sources discuss C.D. Howe's role in the TransCanada PipeLine debate: *C.D. Howe: A Biography* by Robert Bothwell and William Killbourn, and *Seeing Canada Whole, A Memoir,* by J.W. Pickersgill.

refused. In August 1955, Howe proposed a Crown corporation that would build the unprofitable section of the pipeline from the Manitoba border to Kapuskasing, in northern Ontario. Northern Ontario Pipe Line Crown Corporation would then lease the pipeline back to TransCanada. Howe's plan was a circuitous way of helping the company, without giving it money outright.

TransCanada PipeLines then sought financial backing to buy the actual pipe needed for the project. An American company agreed to supply the pipe in return for part ownership. That deal brought American ownership of the cross-Canada pipeline to more than 75 per cent, along with a stipulation that the order for the pipe would expire on June 7, 1956.

Construction problems did not end there. Howe introduced legislation to set up the Northern Ontario Pipe Line Crown Corporation in March 1956. By May, the Federal Power Commission in the United States still had not approved import of gas to that country, part of the scheme that would see a branch pipeline crossing into Minnesota. This rejection dissolved hopes for American financial help to build the rest of the line.

On May 8, 1956, the Canadian government proposed lending to TransCanada PipeLines 90 per cent of the cost of the line between Alberta and Winnipeg. By then, the deadline for passage of the TransCanada PipeLines bill was a month away, on June 7.

Opposition to Howe's plan had been building in the House of Commons. On May 14, the Toronto *Globe and Mail* announced that the government planned to use closure "to ram through its pipeline legislation in short order."

When the Opposition complained, the *Globe* wrote: "Howe sprang to the attack charging his opponents with 'a vacancy of mind, a refusal to face the facts, or the easy irresponsibility of those who need not produce a workable course of action.' "

When the Opposition cried that the pipeline legislation was a "sellout," Howe dismissed it as words that "one might expect to hear from a banana republic revolutionary, but not from any Canadian statesman."

On May 24, the Board of Transport Commissioners gave permission to TransCanada PipeLines for construction of the western section from Alberta to Winnipeg. Mitchell Sharpe, the then assistant deputy minister of Trade and Commerce, attended the hearing on behalf of Howe. Sharpe read a statement supporting the permit.

The battle that ensued in the House of Commons was one of the most ferocious of the 1950s. The opposition parties claimed that the government was subsidizing a pipeline that was owned largely by American interests. A united front of parliamentarians conducted a filibuster with long speeches, a steady barrage of questions, points of order and objections to prevent the tabling of the bill and to stall voting. The government retaliated with closure, a rarely used device to put the bill to a vote at various stages without further debate.

In the early morning of June 6, 1956, the Trans Canada PipeLines bill was passed in the House of Commons, and then quickly passed in the Senate. It was given royal assent on June 7, six hours before the option for the purchase of the pipe would have expired.

Opposition Leader George Drew called for a vote to censure Speaker René Beaudoin for "subordinating the rights of the House to the will of the government." That vote was lost, but criticism persisted with regard to the pipeline bill having been pushed through Parliament.

On January 15, 1957, Justice John D. Kearney resigned as Chief Commissioner of the Board. At the age of 63, he went to sit on the Exchequer Court. Clarence Day Shepard, a 42-year-old corporate lawyer, moved into the Chief Commissioner's chair on the same day. Shepard had the distinction of being the youngest man to serve as Chief Commissioner since the first Board was appointed 53 years before, and the first veteran of World War II. He had served on the boards of several major companies, and had the vigour and energy of his youth.

The country went to the polls on June 10, 1957, and ended more than 20 years of rule by the same party. The new government would be formed by John Diefenbaker, a firebrand lawyer from the Prairies who had already established himself as a tough opponent in the House of Commons.

In the next few days, however, while Ottawa eagerly awaited the arrival of the new prime minister, Diefenbaker was occupied with travel arrangements. He and his wife, Olive, wanted to fly with his staff to Ottawa on an overnight TCA flight from Saskatoon. But as the *Globe and Mail* reported on June 14: "The Diefenbakers have been dickering with TCA in an attempt to get at least one staff member on the all-night flight."

In the end, TCA could not accommodate the staff members and Diefenbaker had to send his staff ahead. The *Globe* reported: "The next prime minister has been left to answer his own telephone today, and to carry and check his own and his wife's baggage tonight."

The TCA episode had nothing to do with the new government's later announcement that it would allow competition on the transcontinental air route. But it could not have endeared the publicly owned airline to the new prime minister. The airline would now be in a precarious position, with its main ally, C.D. Howe, gone from the House of Commons. Howe had lost his Port Arthur seat in the election and subsequently retired from politics.

Diefenbaker's campaign platform had included calls for more competition and less government interference in business. If he were to keep his election promises, TCA's monopoly position was in jeopardy.

It was not the first time that TCA's routes had been threatened. In the early 1950s, Canadian Pacific Air Lines and another Western-based airline, Pacific Western, had made applications to the Air Transport Board for transcontinental freight and passenger services. The Board had held cross-country hearings, but then had passed the matter to the cabinet, where it had died. (In 1945, the Air Transport Board had been given jurisdiction to hear complaints with the powers of a superior court and in 1950, it had been given the power to initiate hearings, but it still remained under the authority of the Minister of Transport.) In 1952, Transport Minister Lionel Chevrier had announced that TCA's monopoly on the transcontinental route would remain in place, but that competition would be allowed on regional routes.

CN PASSENGER TRAIN *NEWFIE BULLET* EN ROUTE TO ST. JOHN'S, PORT AUX BASQUES, NEWFOUNDLAND AND LABRADOR, 11 SEPTEMBER 1967, PHOTOGRAPHER: G. RICHARD, CSTM/CN001777

Although TCA continued to hold the trans-Atlantic routes in 1957, its monopoly was already being eroded. Canadian Pacific held the Pacific routes, and had won South American and Mexican routes in 1952. It was granted a polar flight to Amsterdam in 1955, and was given the Lisbon and Madrid routes early in 1957.[31]

When Diefenbaker installed George Hees as the new Transport Minister, both Canadian Pacific and Pacific Western were working on applications to the Air Transport Board for transcontinental routes. Hees hired Stephen Wheatcroft, a British economist, to conduct a study of airline competition in Canada.

31 Peter Pigott, *National Treasure: The History of Trans-Canada Air Lines*, p. 382-385.

The Wheatcroft report, meanwhile, had been delivered on February 7, 1958. It suggested that limited competition on the transcontinental route would be healthy.

On October 6, the Air Transport Board began country-wide hearings into the Canadian Pacific's application for a transcontinental route. The Air Transport Board issued its report in December and Transport Minister Hees announced the decision on January 21, 1959. The Board had recommended against additional transcontinental air services. But it did recommend a single daily return service for Canadian Pacific from Vancouver to Winnipeg, Toronto and Montréal to connect with its international service.[32]

A *Globe* editorial on January 23, 1959, suggested that the Air Transport Board decision had not gone far enough in introducing competition in the skies.

"The Board's logic is surrounded by befuddlement," *The Globe* stated. "Transport Minister Hees reiterated last February (while he was campaigning for re-election) that the prime responsibility for introducing competition would rest with the Air Transport Board. That Board has now done the government a disservice by suggesting that when its present members (of government) were in opposition, they did not mean what they said about ending the TCA monopoly. The Board's policy appears to be 'Competition if necessary, but not necessarily competition.' "

Although there was some discontentment with TCA's monopoly on transcontinental routes, the daily Canadian Pacific flights put a dent in the publicly owned airlines' budget. In 1960, TCA reported its first deficit — others would follow.[33]

The railway companies were not faring much better. Through the late 1950s, they continued to deal with union demands for higher wages, and declining passenger travel. Meanwhile, they continued to seek higher freight rates. The Board of Transport Commissioners had granted a rate increase of 17 per cent effective December 15, 1958. In April 1959, the railway companies demanded a further 12 per cent increase.

In response to shippers' complaints, Parliament passed the *Freight Rates Reduction Act*, directing the Board to reduce the 17 per cent rate increase to 10 per cent, while the government would reimburse the railway companies for their loss in revenue. The legislation would be a temporary measure. The Board was put in charge of the reimbursement fund.[34]

At the same time, the government established a Royal Commission on Transportation that would look, not only at the railway freight rates, but at all aspects of transportation in Canada.

In May 1960, and again in 1961, the *Freight Rates Reduction Act* was extended, as the Royal Commission, headed by M.A. MacPherson, held hearings.

The Board of Transport Commissioners continued its regular business. An interruption to normal proceedings arose in 1958 when Chief Commissioner Shepard was seconded to the Air Transport Board, while the chairman of that board was ill. Then late in 1958, Shepard resigned

32 Ibid, p. 387.
33 Ibid, p. 382.
34 Board of Transport Commissioners, Annual Report, 1959.

to take a position as vice-president of the British American Oil Corporation. Mr. S. Bruce Smith, an Edmonton lawyer, was appointed, but because of family illness, resigned before taking office. In a quick succession of events, Roderick Kerr, who had served the Board of Transport Commissioners for several years as senior counsel and then briefly as Assistant Chief Commissioner, took over the Chief's position.

Another change for the Board involved its loss of jurisdiction over gas and oil pipelines in 1959, when legislation was passed to create the National Energy Board.

The MacPherson Commission issued its findings in three volumes in 1961-1962. The Commission defined the objective of Canada's national transportation policy as "the movement of Canadian goods and people with minimum demands on the human and material resources." The Commission recommended that the transportation policy be achieved through competition rather than regulation, a radical shift from the government's approach for the past 60 years.[35]

The report foresaw a reduced role for railway companies, and recommended that railway companies could only compete with other modes of transportation if the burden of regulation was lifted. Where the obligations could not be lifted, the railway companies should be compensated for the expense of service. Four areas in which railway companies were hindered, according to the Commission, were passenger services, branch lines, grain rates and free transportation privileges.

The report also recommended that all modes of transportation should be treated equally, and that each mode be allowed to compete with another, and that financial aid to particular shippers should not be disguised as transportation subsidies.

The final recommendations of the MacPherson Commission were released in 1962, at a time when the government was nearing the end of its four-year mandate. On January 23, Diefenbaker, tabled the second volume of the report, saying that documents would be "thoroughly examined."

On April 12, 1962, Finance Minister Donald Fleming said, "The recommendations contemplate a radical departure from the basis of rate-making as provided for in the present provisions of the *Railway Act*. The two volumes would involve a fundamental reconstruction of much of our railway legislation, particularly on the financial and regulatory side."

With an election in the offing, it was not the time to start "a radical departure" or "a fundamental reconstruction" in transportation policy. It was time to campaign for re-election.

A minority government was formed in June 1962. But, unhappy with the small win, they returned to the polls on April 8, 1963—and lost.

The party previously in power returned with a minority government, and a new prime minister, Lester B. Pearson, a former civil servant and winner of the Nobel Peace Prize. On November 8, 1965, the third election in just over three years was called, and again the minority government remained a minority.

Although transportation policy and the MacPherson Commission had been shoved to the sidelines, they had not been forgotten in the

35 John Saywell, editor, *Canadian Annual Review*, 1962, p. 209.

intervening years. Subsidies to railway companies, initiated by the *Freight Rates Reduction Act* in 1959 as a temporary measure, were still being doled out. The two following governments continued to work on legislation to change the freight rates policy. A bill was introduced in 1963. Then, a cabinet shuffle put John Whitney Pickersgill in charge of the Transport portfolio.

Jack Pickersgill had earned legendary stature on the Hill by the time he took over transportation policy in February 1964. Originally a professor of history, Pickersgill had joined the civil service in the late 1930s and was quickly promoted to the office of Mackenzie King. He became King's personal secretary and confidant, and later St. Laurent's. He had served as Clerk of the Privy Council and Secretary of State.

In 1952, he won a seat in the House of Commons and became a major player in politics. There was nothing about the running of government or the workings of Parliament that Pickersgill did not know. When he had worked as secretary to the prime ministers, a popular comment had been "Clear it with Jack."[36] As a politician, he earned the nickname Jumping Jack because he popped up from his seat so often in the House of Commons. Unlike his predecessor, C.D. Howe, Pickersgill revelled in parliamentary debate. In fact, he had been involved in planning the closure tactics used in 1956 to get the pipeline bill through Parliament.

Now he was ready to take on the reconstruction of transportation policy, and he was determined to create a bill that would stand the test of time.

On January 27, 1967, the Winnipeg Press reported, "A massive transportation bill that will revolutionize Canadian railroading passed its final debating hurdle on Thursday night. Transport Minister Pickersgill won a round of applause from both sides of the chamber as the final vote was taken to end 15 days of clause-by-clause study. Only routine third reading and Senate approval remain before the bill goes to royal assent."

The *National Transportation Act* was based on the MacPherson Royal Commission completed five years before. It had been introduced in the House in September 1966, before it was sent to committee for two months of study. The 30,000-word bill had 60 amendments, but remained mostly intact.

The main points of the bill were: the establishment of the Canadian Transport Commission to direct all forms of transportation under federal control — railways, shipping, airlines and interprovincial trucking; that railway companies would have the freedom to set freight rates without regulation; and that railway companies would be able to abandon uneconomic branch lines and passenger services unless the government specifically ordered otherwise in the public interest, and then paid their deficits.

There was one point in which Pickersgill did not manage to change transportation policy, and that was the Crowsnest Pass Agreement. A legacy from the time of Andrew G. Blair, the Crow rate had been passed in 1897, giving CP a subsidy for Crowsnest Pass construction in return for a reduced freight rate in perpetuity. Although there was no political desire to remove the Crow rate, Pickersgill did attempt to put an amendment into the bill that would allow for a cost study of it at a later date. That was soundly defeated.

---

36 John Robert Columbo. *Columbo's Canadian Quotations,* p. 475.

JACK PICKERSGILL HAD EARNED LEGENDARY STATURE ON THE HILL BY THE TIME HE TOOK OVER TRANSPORTATION POLICY IN FEBRUARY 1964. ORIGINALLY A PROFESSOR OF HISTORY, PICKERSGILL HAD JOINED THE CIVIL SERVICE IN THE LATE 1930S AND WAS QUICKLY PROMOTED TO THE OFFICE OF MACKENZIE KING. HE BECAME KING'S PERSONAL SECRETARY AND CONFIDANT, AND LATER ST. LAURENT'S. HE HAD SERVED AS CLERK OF THE PRIVY COUNCIL AND SECRETARY OF STATE.

On March 27, 1967, another major policy shift was announced, this time regarding airlines. Canadian Pacific was allowed to double its transcontinental service to two return flights a day. It also was allowed to add Calgary, Edmonton and Ottawa to its transcontinental route. (The route had been Vancouver, Winnipeg, Toronto and Montréal.) The policy decision was based on a study by Stephen Wheatcroft, the British economist who had recommended the first expansion of Canadian Pacific into transcontinental service in 1958.

The first intimations of change at the Board of Transport Commissioners came in the Annual Report for 1966, published early in 1967. The opening pages of the report contained this announcement: "While this report deals with the work of the Board during the 62 years since its establishment in 1904, it may well mark a historic turning point in the field of transportation regulation in Canada and may be the last report submitted by the Board. ... If legislation (Bill C-231) is enacted, the Board of Transport Commissioners for Canada will be merged with the Air Transport Board and the Canadian Maritime Commission into a new Canadian Transport Commission."

A historic turning point had indeed been reached. The *National Transportation Act* was passed and became law. And it was Canada's centennial year. The nation was getting ready to celebrate.

TAKING CONTROL

THE CANADIAN TRANSPORT COMMISSION, 1967 TO 1988

+ 1967, the Centennial Expo held in Montréal, Québec, was a huge success.

+ February 1, 1972, proclamation of the *Pilotage Act*.

+ 1983, the *Western Grain Transportation Act* replaced the Crowsnest Pass Agreement.

Centennial year was a time of euphoria. Throughout the spring and summer of 1967, Canadians enthusiastically waved their flag — the new maple leaf that had been adopted by Parliament in 1965 — and expressed their national pride with countless parades and costume parties.

Expo 67 in Montréal, the centrepiece of the Centennial, was a huge success. Expo officials clocked more than 50 million paid admissions to the site from April 28 to October 27.[37]

The influx of tourists brought heightened activity to the transportation industry. CN reported that 18 million people used its passenger rail services that year, a 25 per cent increase over the previous year.[38] Airlines experienced a spike in business as well, with a 20 per cent rise in traffic (from 1966) at Montréal's Dorval airport alone.[39]

37 James H. Marsh, *The Canadian Encyclopedia*, p. 738.
38 Donald MacKay, *The People's Railway, A History of Canadian National*, p. 246.
39 F.H. Leacy, *Historical Statistics of Canada*, a collection of data from Statistics Canada (previously the Dominion Bureau of Statistics). The figure for Dorval airport comes from the Transportation and Communications section, Civil Aviation. T240-246, titled "Arriving and departing civil flights at selected Canadian international airports, 1960 to 1975."

In the cooling winds of autumn, the celebratory mood drifted away. Party streamers were swept from dance-hall floors, Centennial tartan sports jackets — just slightly garish — were relegated to the back of closets where they would stay, and colonial-style dresses with matching bonnets were stuffed into boxes to gather dust in patriotic attics.

On September 20, 1967, the Canadian Transport Commission (CTC) met for the first time. The new president was John W. (Jack) Pickersgill, most recently the Minister of Transport who had personally escorted the new *National Transportation Act* through Parliament.

Since passage of the legislation in January, Pickersgill had assessed his own future and decided it was time for a career change. As he related in his memoir, *Seeing Canada Whole*, he saw little ahead for himself in politics, after sitting in the House of Commons for 14 years. At the age of 62, however, he was not ready for retirement. After some discussion with Prime Minister Lester Pearson, Pickersgill resigned from cabinet and the House of Commons. Then on September 20, he took the top spot at the newly created Canadian Transport Commission.[40]

Pickersgill's new job did not go unremarked in the House of Commons. On September 25, Tommy Douglas commented that it had been said "a Member of Parliament could get out of politics in one of two ways, either by dying or by being defeated. The first is so final, and the second so humiliating." But Douglas added: "Mr. Pickersgill has managed to find a third way. It is not every member who can write his own ticket or draft the bill for his own final haven of rest."

Whether Pickersgill got any rest at the newly formed commission remained a matter of lighthearted conjecture in the House of Commons for some time, but the CTC set to work, nevertheless, at an earnest and steady pace.

The Canadian Transport Commission absorbed most of the members from the previous boards — the Board of Transport Commissioners, the Air Transport Board, and the Canadian Maritime Commission. (Roderick Kerr, who had been chairman of the Board of Transport Commissioners, moved to the Exchequer Court.) The *National Transportation Act* had provided for a maximum of 17 members who would serve for 10 years and to a maximum age of 70. According to the Act, there would be a president and two vice-presidents, one to supervise legal and administrative matters, the other to oversee research.

The CTC also absorbed the staffs of the previous boards, which numbered 377 in 1967. In late 1968, the CTC set up headquarters at 275 Slater Street in Ottawa.

The Canadian Transport Commission's mandate was to deal with all modes of transportation as a competitive whole "with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways, water, aircraft, extra-provincial motor vehicle transport and commodity pipelines."

The ultimate aim of the Act was "an economic, efficient and adequate" transportation system. To achieve that, the CTC was instructed to provide regulation without restricting competition among the modes of transportation; to ensure fair distribution of costs of services provided

40 J.W. Pickersgill, *Seeing Canada Whole, A Memoir*. Although a large part of Pickersgill's memoir focuses on his earlier career, the later chapters discuss his time as Transport Minister and the early days of the Canadian Transport Commission.

THE TURBO TRAIN UNDER TESTING IN SAINT-HYACINTHE,
QUÉBEC 1967, PHOTOGRAPHER: J. FAMERY, CSTM/CN000564

at public expense; to provide compensation for services that carriers were required to provide in the public interest; and to ensure that rates set by carriers should not be unfair.

The CTC established separate committees to handle the five modes of transportation: rail, air, water, motor vehicle and commodity pipeline (except oil products). Most of the authority and responsibilities held by the CTC's predecessors in the areas of rail, air and marine were assumed by the new committees, with a few striking differences.

Under the new *National Transportation Act*, railway companies would be able to set their own rates (other than on grain covered by the Crowsnest Pass Agreement), and they would be allowed to abandon uneconomic branch lines and passenger services, unless required in the public interest. The Railway Transport Committee would make decisions on abandonment applications.

The Air Transport Committee held responsibility, under the government's new policy of restricted competition, for regulating air licencing and tariffs. In considering licences, the committee was instructed to consider "present and future public convenience and necessity." The aim was for broader competition without endangering the privileged status of the publicly owned airline, the newly renamed Air Canada.

The CTC also created a Motor Vehicle Transport Committee with the intention of assuming some authority over the extra-provincial commercial trucking and bus industries. Truck companies had become the railway companies' main competition for freight traffic, but they were largely unregulated. The federal government had handed control of interprovincial commercial trucking to the provinces in the *Motor Vehicle Transport Act* of 1954. Regulations between the provinces were uneven or non-existent. Part III of the *National Transportation Act* allowed for the cabinet to make exemptions to the 1954 Act that would give the CTC jurisdiction in specific areas. The provinces, however, were reluctant to give up their powers. Part III of the Act was not proclaimed until 1970, and then was seldom put to use.

THE AIR TRANSPORT COMMITTEE HELD RESPONSIBILITY, UNDER THE GOVERNMENT'S NEW POLICY OF RESTRICTED COMPETITION, FOR REGULATING AIR LICENCING AND TARIFFS. IN CONSIDERING LICENCES, THE COMMITTEE WAS INSTRUCTED TO CONSIDER "PRESENT AND FUTURE PUBLIC CONVENIENCE AND NECESSITY." THE AIM WAS FOR BROADER COMPETITION WITHOUT ENDANGERING THE PRIVILEGED STATUS OF THE PUBLICLY OWNED AIRLINE, THE NEWLY RENAMED AIR CANADA.

The Motor Vehicle Transport Committee did, however, assume other responsibilities. In 1969, the CTC began to implement the *Atlantic Region Freight Assistance Act*, which extended to truckers in the Atlantic provinces the same subsidies that railway companies had received since 1927, under the *Maritimes Freight Rates Act*. The subsidies were intended to reduce the burden on shippers in the Atlantic provinces for moving their goods either out of the region to Central or Western Canada, or to other parts within the Atlantic Region.

According to the 1969 Annual Report, the Motor Vehicle Transport Committee made "another step in equality of regulation" when it began to allow exemptions for trucking companies from the *Lord's Day Act*. When the Act, which basically prohibited work on Sunday, was drafted in 1906, it had specifically exempted railway and shipping companies. Now, upon application, trucking companies could be exempted as well.

In 1967, the Commodity Pipeline Transport Committee was also created to handle the fifth mode of transportation under the new CTC's jurisdiction — pipelines for commodities other than oil or its products. There were no actual commodity pipelines to regulate in 1967, however. The National Energy Board had assumed control of oil and gas pipelines in 1959.

The *National Transportation Act* had also provided for a Research Branch, which Pickersgill had envisioned as setting priorities for transportation studies and recommending policy. By the end of 1968, a full-time staff of 23 was employed in the Research Branch and an advisory board of interested citizens had been established to help determine priorities for study. As it turned out, however, the Research Branch never functioned as Pickersgill had intended.

In Seeing Canada Whole, written many years later, Pickersgill wrote, "Unfortunately a good deal of frustration developed largely because the planned scope of the Research Branch was not adequately explained." He continued, "My hope of an independent and permanent entity available for research into transport problems and opportunities faded away." In 1970, the Ministry of Transport established its own research facility, the Canadian Transportation Development Agency, and recruited some of the CTC's research staff.

The CTC set up the International Transport Policy Committee in 1968, which took over responsibility for monitoring international agreements for the different modal committees. And in 1970, yet another committee was formed, the Review Committee, set up to review appeals of decisions that had been made by the modal committees.

The majority of the CTC's work, however, was concentrated on the rail and air modes.

The Railway Transport Committee's first priority was to set out the framework for rationalizing passenger rail service and branch lines. Since 1959 when the *Railway Reductions Act* had been enacted as a temporary measure, freight rates had been frozen and the government had been paying annual subsidies to railway companies for their losses. By 1967, the government had paid out over $500 million.

The CTC's goal was to eliminate the subsidies by gradual reduction within eight years; to allow railway companies to set their own rates according to competition; and to allow railways to

FREIGHT TRAIN TRANSPORTING POTASH IN YARD, MELVILLE, SASKATCHEWAN, 1967. PHOTOGRAPHER: G. RICHARD. CSTM/CN000543

abandon the uneconomic branch lines and passenger service, unless required in the public interest, at which time the government would compensate the railway companies.

In 1968, the CTC allowed CN to discontinue its trans-Newfoundland passenger rail service, known as the *Newfie Bullet*. The decision was based on CN's assurance that it would establish its own service for the province of "unquestionably clean, modern and fast buses." Jurisdiction of the CN-operated bus service was passed to the Newfoundland Board of Public Utility Commissioners that year.

In 1969, the Railway Transport Committee, after months of hearings and consultations, issued the Costing Order, which outlined the method to determine railway operating costs and to calculate losses in order to apply for discontinuance of service.

As soon as the Costing Order was issued, the CTC received 31 applications for passenger-train discontinuance, including 18 applications from CP to discontinue all of its passenger service, except commuter lines. CP claimed more than $30 million in losses in 1968. CN filed applications for 13 services, claiming losses of more than $11 million. The CTC set to work to determine actual losses, and then, as required by statute, to begin public hearings into each application for discontinuation. That in itself was a mammoth task since every public hearing could involve submissions from several parties and several days of hearing. The CTC was required to consider the public interest in every discontinuance, and as laid out in the Act, it had to ensure "efficient, economic and adequate" service.

On June 18, 1970, after the required public hearings, the CTC rejected CP's application to

discontinue the Canadian, its daily transcontinental passenger train service. The Canadian's losses in 1968 were set at more than $15 million.

As the CTC's Annual Report for 1970 stated, "Because of the probable annual level of subsidy required to continue the Canadian — more than $1 million a month — the CTC directed CP to produce a plan of rationalization." One can almost hear an intake of breath from the CTC — and the government — as that monthly sum was considered.

In February 1971, the CTC rejected CN's application for discontinuance of the Super Continental, its transcontinental passenger service, and set CN losses for 1969 at $14 million.

On April 14 of that year, the CTC announced that it would conduct a study of an integrated transcontinental passenger service plan. Another study was set up to examine passenger service from Montréal to the Maritimes.

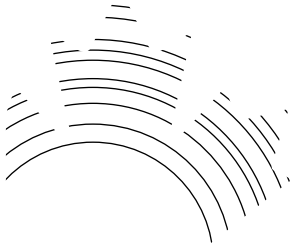
By the end of 1971, CN had filed for discontinuance of all of its passenger services. With the CN filings, the CTC had received applications for discontinuance of all the passenger rail service of any significance in Canada. Annual losses for passenger services from CN were reported at $76.3 million in 1970. CP'S annual losses were set at $31 million. The total, including some small passenger lines, was $108 million.

The CTC's Annual Report for 1971 carried a message that, considering the escalating compensation to be paid out for uneconomic services, might have been a plea for help: "The figures ($108 million) emphasize the importance of the Commission's rationalization program which is aimed at discontinuing those services, no longer required by public need, ending unnecessary duplication and eliminating any over-capacity that may exist on services that are required to continue operating in the public interest."

The railway companies were working to reduce costs on those lines. "The total annual savings from rationalization effected by the CN and CP during the last three years are $17.5 million," the 1971 CTC report stated. "Without such steps most of that amount would have become a recurring subsidy charge on the taxpayers." The railway companies had also started to introduce some cost cutting in local train stations. New technology had introduced the use of computers and the centralization of communications. Gradually in the early 1970s, the major railway companies began to remove local station agents from the smaller centres. All these factors helped the railway companies to cut some costs.

However, a substantial amount would still have to be paid from the public coffers for uneconomic services that the CTC had ordered to continue in the public interest — to the tune of 80 per cent for passenger lines and 100 per cent on branch lines.

Under the *National Transportation Act*, the plan was to phase out general railway subsidies, or "normal payments," which had been agreed upon prior to 1967. A schedule was set up so that payments that totalled $110 million in 1967 would decline by $14 million a year to reach $12 million by 1974. No railway company would receive any other subsidy — for instance, for running uneconomic passenger service or branch lines — until those claims exceeded the amount of subsidy they were already receiving under the normal payments plan. Only too quickly, however, the



BY THE END OF 1971, CN HAD FILED FOR DISCONTINUANCE OF ALL OF ITS PASSENGER SERVICES. WITH THE CN FILINGS, THE CTC HAD RECEIVED APPLICATIONS FOR DISCONTINUANCE OF ALL THE PASSENGER RAIL SERVICE OF ANY SIGNIFICANCE IN CANADA. ANNUAL LOSSES FOR PASSENGER SERVICES FROM CN WERE REPORTED AT $76.3 MILLION IN 1970. CP'S ANNUAL LOSSES WERE SET AT $31 MILLION. THE TOTAL, INCLUDING SOME SMALL PASSENGER LINES, WAS $108 MILLION.

railway companies reached the point where their losses exceeded the amounts that they were receiving in previous subsidy payments.

By 1973, the CTC had issued decisions on all 70 applications for discontinuance of passenger-train service it had received since 1967. Of those, it had ordered 59 services continued and approved the discontinuance of 11.

Similarly, by the end of 1973, the CTC had decided that all branch lines in the Prairies should be protected from abandonment until the end of 1974. In turn, the railway companies running the uneconomic branch lines would be compensated for their losses.

The CTC's Annual Report for 1974 remarked on the sharp increases in operating costs for "every segment of the transportation industry." That year, "the total payments for various statutory subsidies administered by the CTC for rail, water, road and air transport rose to more than $232 million, up $52 million from 1973. The major outlay was in payments to the railway companies as compensation for uneconomic services they were required to provide in the public interest during 1973."

Furthermore, the Annual Report stated, "Total claims from railway companies for losses caused by running uneconomic services in the public interest amounted to $160.4 million." Another $26 million was paid in claims through a continuous process of verifications from 1969-1972.

That same Annual Report announced a new "railway branch-line freeze in the three Prairie provinces. The new policy designates a basic network of 12,413 miles of track to be protected from abandonment until the year 2000. Another

6,283 miles will be protected until the end of 1975. A total of 525 miles of track, not currently in use, is open to abandonment procedures."

The railway companies had been relieved of huge losses for running uneconomic services that the CTC deemed to be in the public interest, but the price paid by taxpayers was constantly mounting.

The Railway Transport Committee had other concerns, among them railway safety. A rash of accidents in 1970 on the main lines between Montréal and Toronto led to an inquiry and later the formation of a task force to establish safety measures for the movement of dangerous commodities by rail. A Railway Safety Advisory Committee was established in 1973.

The Committee also continued to hear rate applications for telephones and telegraphs, part of the mandate passed on from the previous Board of Transport Commissioners. In August 1970, the Committee took over regulation of charges by private wire-service companies. In 1971, the CTC set up a separate Telecommunications Committee to deal with the increasing rate issues. The CTC's workload continued to grow and so did its committees. Now it had eight.

Meanwhile, the Air Transport Committee was occupied with the steady stream of applications for commercial air licences. As with CTC decisions on the discontinuance of rail service, the Air Transport Committee considered the licencing applications on a case by case basis, to determine present and future public convenience and necessity. The volume of applications increased — from 377 in 1967 to 695 in 1974.

In 1969, CP Air (formerly Canadian Pacific Airlines) was allowed a larger share of the transcontinental route — 20 per cent, as had been outlined in the government's air policy of 1967. By 1970, CP Air was providing 25 per cent.

Regional carriers were also taking over more routes, often in areas where the large carriers chose to withdraw their services. Subsidies were used as encouragement for the regional airlines to supply uneconomic routes, where no other transportation was available. Although more competition was being allowed in the air mode, Canada's publicly owned airline was still granted priority.

The CTC's policy in this regard is illustrated in its 1974 Annual Report. "Nordair was denied authority for a route linking Montréal, Ottawa, Sudbury and Thunder Bay. The Nordair decision followed public hearings at Sudbury and Thunder Bay during which Air Canada announced plans to add the same route to its schedule early in 1975."

Successive Annual Reports in the 1970s hint at the fast pace of developments in the transportation industry since the CTC had been formed in 1967.

In 1971, the CTC's Marine Transport Committee conducted a study on coasting trade and recommended that traffic between Canadian ports be reserved for Canadian vessels and that restrictions be broadened to offshore activities like dredging, salvage and drilling. Proclamation of the *Pilotage Act* of February 1, 1972 gave the Marine Committee new jurisdiction over tariffs of pilotage charges for the country's four pilotage authorities — Pacific, Atlantic, Great Lakes and Laurentian.

FERRY MV FEDERAL AVALON, ST. JOHN'S, NEWFOUNDLAND AND LABRADOR, 1975 PHOTOGRAPHER: M. SEGAL, CSTM/CN001689

In 1973, the CTC reported that "a major round of negotiations with the United States gave 46 new Canadian and U.S. scheduled air routes, bringing the total to 81."

The Annual Report for 1974 announced that the CTC's International Transport Policy Committee had established an International Intermodal Transport and Facilitation Branch. The branch would "co-ordinate, harmonize and develop policy on economic regulation of international multimodal transport, including movement of containerized and break-bulk cargo." One area of study would be a single through bill-of-lading for entire intermodal transport of goods from the point of origin to the destination.

Since the CTC's early days, there had been a power struggle with the Ministry of Transport over policy-making. As early as November 22,1968, an Opposition Member of Parliament had put his finger on the problem. MP Thomas Bell had asked in the House of Commons: "Who is really the boss in transportation? Is it the minister or is it the new chief dictator of the CTC (referring to Pickersgill)?"

Pickersgill's retirement on August 31, 1972, did little to deflect the rivalry with the Ministry of Transport. He was replaced by Edgar J. Benson, who had served as finance minister during Prime Minister Pierre Trudeau's first term in office. Benson, a chartered accountant, had overhauled Canadian tax laws in the late 1960s and was still young — only 49 — when he turned his energies to overseeing the CTC.

In the early months of 1974, a jurisdictional dispute between the CTC and the Ministry of Transport surfaced in the House of Commons. A shortage of railway cars that winter had caused a slowdown of freight traffic in the West, including the movement of grain to export markets.

Transport Minister Jean Marchand described his quandary on March 7, 1974, in the House of Commons: "About the same number of boxcars are available this year as we had last year. This means that no provision was made for any growth in the economy. So, what do we do in this situation? Honourable Members might say, 'You are the minister; you do it.' It is true that Honourable Members gave responsibilities to the minister, but they forgot to give any authority at all in many instances.' "

"We have the CTC," Marchand continued, "which has final authority over almost everything, except in a few cases where there is provision for an appeal to the minister."

Marchand, who was well known for his blunt manner, concluded: "We have everything in Canada. We have water, air, surface — we have ice, we have snow and we have distance — we have everything to have fun in transportation. Something we do not have is a real policy and I hope that sooner, rather than later, it will be possible to have such a policy."

Under questioning from the House Standing Committee on Transportation, Benson said that it was not within the CTC's responsibilities to order the railway companies to purchase additional equipment. Marchand had further reason to take policy-making into his own hands.[41]

On April 8, Marchand reported to the House that he was preparing a policy paper on transportation.

A July election returned Trudeau to power and Marchand set to work on his transportation policy proposals. A year later, on June 16, 1975, he tabled a document called Transportation Policy — A Framework for Transportation in Canada, along with an Interim Report on Inter-City Passenger Movement in Canada and an Interim Report on Freight Transportation.

41 H.N. Janisch, *The Regulatory Process of the Canadian Transport Commission*, p. 16. This document, a study prepared for the Law Reform Commission of Canada, gives a lengthy analysis of the workings of the CTC based on a six-month research project in 1974-1975.

Marchand's policy paper envisaged "the use of transportation as an instrument of national policy rather than as a passive support service." It further explained "that the transportation system should be accessible, equitable and efficient, rather than economic, efficient and adequate. The notion of efficiency is not lost, but the emphasis is on service to Canadians."

The paper also stressed that it would "rely on competition where economic and technical conditions permitted, rather than relying almost exclusively on competition." In effect, Marchand was changing the course of national transportation policy — directing it away from competition and back to regulation with the top priority being service to Canadians.

Marchand defined the Canadian Transport Commission's role in this way: "Transportation in Canada is too big a business to dispense with an organization such as the CTC. But we would like to see the policy made by the Ministry of Transport and applied by the CTC. Right now, there are many fields where it is the CTC that is making the policy, not the department at all."

Marchand continued, "I do not mind if they (the CTC) have a lot of authority but what I do mind is that if we think it is in the interests of Canada to do certain things, I want to be able to say to the CTC that this is a new policy and that they will follow it."

Marchand did not get a chance to have his way with the CTC. On September 25, he was removed from the Transport post in a cabinet shuffle. *The Montreal Gazette* explained the next day that "Mr. Marchand, deservedly popular for his human qualities, his frankness and his negotiating skills, came to the point where he needed the lighter load he has been given." Marchand became a Minister without portfolio, while Justice Minister Otto Lang was appointed to the Transport job.

According to Trudeau, *The Gazette* reported, the economy was "in a serious situation." And the prime minister was "determined to take whatever measures are necessary to achieve positive results."

The Gazette had reported on September 16 that CP had announced a new round of layoffs as part of the railway company's austerity measures in response to "low levels of freight traffic and rising costs. CP reported that it was curtailing spending in a variety of ways, besides layoffs, including storing locomotives and boxcars, reducing administrative costs and postponing capital projects."

In October 1975, Trudeau's government introduced wage and price controls, a three-year program to tackle rocketing inflation. The country had been struggling for several months with spiralling costs in the face of a world-wide oil crisis. The government's belt-tightening measures would be felt in all areas of Canadian life, including transportation policy.

As the CTC's 1975 Annual Report explained, the anti-inflation program "placed an increased responsibility on the CTC to regulate or monitor rate increases and profit margins in those areas of transportation and telecommunications that fall within federal jurisdiction."

A commission of inquiry, headed by Emmett Hall, a retired Justice of the Supreme Court of Canada, was appointed in 1975 to investigate the railway requirements of grain producers, elevator operators and related businesses. Meanwhile, the freeze on abandonment of 6,283 miles of branch lines in the Prairie provinces was extended for another year to the end of 1976. While the Hall Commission held hearings throughout the four western provinces, the CTC allowed 362 of the 525 miles of unprotected Prairie trackage to be abandoned.

In January 29, 1976, Transport Minister Otto Lang issued a directive for development of "a basic single network of rail passenger services across Canada" with the expressed purpose of "avoiding duplication of services." The CTC was asked "to conduct a series of public hearings to ensure that the views of Canadians continue to be determined and taken into account in arriving at a national passenger service network."

On June 11, Lang described in the House of Commons his interpretation of Canada's transportation problems: "The conglomeration of approaches to transportation in Canada which has developed over the years is full of inconsistencies and contradictions, that have built into it tremendous costs and non-productive expenditures."

Lang answered critics of his "user-pay" approach to controlling costs in transportation with the response, "If it isn't the user who should pay, then who should pay — the non-user?"

Lang went on to say: "Productivity in this country will be improved by the rational approach to transportation and the lowest cost alternatives being selected. Productivity will also be improved as users of transportation face the real cost to this country of what we are trying to do and not the artificial rates based on some Band-Aid, political opportunity subsidy. Those subsidies we will want to remove and that will be our task." That, as Lang and others were to discover, was easier to say than do.

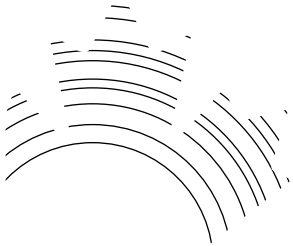
Another government plan was mentioned in the CTC's 1976 Annual Report. "Transport Minister Otto Lang announced in mid-year that the government was willing to provide up to $2 million for start-up costs involved in the establishment of air services to certain points in Manitoba and Saskatchewan. The Minister directed the CTC to invite proposals on the operation of specific routes and to provide him with a detailed assessment of the submissions received." The routes were jet service between Regina, Brandon and Toronto, and jet or non-jet service linking Saskatoon and Yorkton in Saskatchewan to Dauphin, Brandon and Winnipeg in Manitoba.

In 1976, CN's Roadcruiser bus service, the only public passenger service in Newfoundland, was put under the CTC's jurisdiction. A dispute between CN and its provincial regulator had led Ottawa to make an exemption to the *Motor Vehicle Transport Act*, according to Part III of the *National Transportation Act*.

In another jurisdictional change that year, the Canadian Radio-Television Commission assumed authority over telecommunications from the CTC.

In May 1977, the Hall Commission on Grain Handling and Transportation released its report called Grain and Rail in Western Canada. It recommended the abandonment — in stages from 1977 to 1981 — of 2,165 miles of grain-related

Prairie branch lines and the retention of the other branch lines until 2000. The report also recommended the establishment of a Prairie Rail Action Committee. The CTC subsequently began to consider applications for abandonment of the eligible branch lines.



"PRODUCTIVITY WILL ALSO BE IMPROVED AS USERS OF TRANSPORTATION FACE THE REAL COST TO THIS COUNTRY OF WHAT WE ARE TRYING TO DO AND NOT THE ARTIFICIAL RATES BASED ON SOME BAND-AID, POLITICAL OPPORTUNITY SUBSIDY. THOSE SUBSIDIES WE WILL WANT TO REMOVE AND THAT WILL BE OUR TASK." THAT, AS LANG AND OTHERS WERE TO DISCOVER, WAS EASIER TO SAY THAN DO.

The CTC Annual Report for 1977 reported that restrictions had been eased on CP Air's transcontinental routes to allow turnarounds at western points other than Vancouver. The CTC also noted that the government would allow CP Air to provide air services to Saskatchewan, and also to consolidate all of its licences into one, which would allow the airline to operate flights between any two points named in the consolidated licence.

The Air Transport Committee also warned, "Continued cost pressures, including world-wide increases in fuel prices, caused air carriers to file for increases in international and domestic fares and rates in 1977."

Meanwhile, Bill C-31, the bill based on Marchand's policy plan to amend the *National Transportation Act*, was stalled in its first reading in the House of Commons in January 1977. Enthusiasm for the bill gradually waned as efforts for change in transportation policy were directed elsewhere.

The *Air Canada Act* of 1977 removed the airline from CN control and made it a separate Crown corporation, under the jurisdiction of the CTC and subject to the same regulations as its competitors. In 1978, the CTC allowed the airlines to introduce a variety of new fare discounts.

Between April 1978 and October 1979, the western and eastern transcontinental passenger services of both CP and CN were absorbed into a new Crown corporation called VIA Rail.

In March 1979, the CTC issued a report on a meeting about public transportation for people with disabilities, and created a special advisory panel. Among its recommendations were changes

LAUNCHING OF THE LABRADOR COASTAL SHIP MV TAVERNER, COLLINGWOOD, ONTARIO, MAY 1962, CSTM/CN001653

to tariffs to allow self-reliant passengers with wheelchairs to travel alone and to require VIA Rail to provide lifting devices for their assistance.

The Canadian Transport Commission opened a western Division in Saskatoon on May 1. In response to a government policy that enunciated a need for a western presence, the CTC 1979 Annual Report stated, "Its mandate is to perform all those functions of the CTC that are delegated to the modal committees: from Thunder Bay to Pacific Coast for rail and from the Ontario-Manitoba border to Pacific Coast for other modes." Two commissioners were appointed to the CTC's western Division. It took over responsibility for the Prairie branch-line rehabilitation program, and Prairie branch-line abandonment applications. The CTC pointed out, "Although it is in charge of all modes, its primary concerns at this time are the rail and air divisions."

Also in May, a member of the Canadian Transport Commission attended a meeting in London, England, to discuss the Bonn Declaration on Terrorism. In the declaration made in 1978, seven western nations, including Canada, had agreed that sanctions — in the form of cancelling air services — would be directed at any country that refused to extradite or prosecute hijackers, or to return hijacked aircraft. The airline industry had entered a chilling new era in which peacetime was no protection against violence in the skies.

Then in the fall of 1979, danger hit closer to home. On November 10, 1979, 24 CP cars carrying liquified chlorine and other flammable compressed gases derailed in Mississauga, a suburban community west of Toronto. A raging fire resulted, forcing the removal of 230,000 citizens from the area. Although no deaths were reported, the catastrophic possibilities of the derailment alerted the nation to potential disasters ahead. A Board of Inquiry was appointed, under Ontario Appeal Court Justice Samuel Grange, to investigate the derailment.

The Canadian Transport Commission became the focus of the federal Auditor's Report in 1979. "The Commission, in common with some 30 other federal government departments, is currently engaged in an intensive review of its management practices and controls," the CTC reported at the end of the year. "The reforms that can already be foreseen as resulting from this review will touch upon almost every aspect of the Commission's organization and operations.

"In addition to improving its internal management and financial controls, the Commission has an important role to play in the realm of regulatory reform. As the largest of the federal regulatory agencies, the CTC will be the trial agency upon which new policies, aimed at lightening the burden of regulation upon society, will be tested. Those policies which are found to be workable and beneficial will then be passed on to the myriad of other, smaller federal regulatory agencies."

Regulatory reform was already under way. As the CTC reported, "Regulatory amendments liberalizing domestic and international charter rules were approved December 21, 1979 and incorporated into the *Air Carrier Regulations*."

The CTC reported in 1980 that in the air sector "more flexible regulations and simplified accounting procedures were established to permit greater carrier competition and less regulatory burden." Among other things, the CTC was allowing more competition in air fares: "For scheduled flights, carriers can now innovate fare reductions of nearly 50 per cent."

That laissez-faire experiment was sidetracked in 1982, "after a number of carriers had made it known that fare-discounting had reached a point where revenue losses had begun to threaten the stability of the domestic scheduled airline system." The CTC imposed restrictions on discounts of more than 25 per cent, which included requirements such as round-trip travel and 14-day advance booking.

The Grange Report on the Mississauga Railway Accident Inquiry was released on January 19, 1981. On September 30, the CTC ordered implementation of several recommendations including a speedier conversion to roller bearings, modifications of tank cars to increase safety, the use of additional hot box detectors, and a reduction in speed and in the length of trains.

In 1981, just three years after it had been created, VIA Rail was weighed down with a deficit and had applied to the CTC to abandon 20 per cent of its passenger services. The CTC allowed the discontinuances on September 28, 1981. By the end of the year, VIA had cut nine trains, including the Super Continental, one of two transcontinental services.

In late 1983, the *Western Grain Transportation Act* was passed to replace the venerable Crowsnest Pass Agreement. The Crow rate, considered sacred by western farmers, was a reduced freight rate on grain that CP had agreed to in 1897. The Act to replace it was hammered out by Jean-Luc Pépin, who had been Transport Minister since 1980.

But when the bill was released, it caused enough of an uproar among western farm groups that Prime Minister Trudeau quickly moved his only cabinet minister from the West into the Transport portfolio.[42] Lloyd Axworthy, from Winnipeg, replaced Pépin on August 12, 1983. The new Act, allowing for a freight price increase (to a maximum of 10 percent on the world grain price) and federal compensation to railway companies for losses, was passed on November 17. The CTC took over responsibilities for the costing of grain movements, cost forecasting, determining rates, and payment of the government's commitment to railway companies, now at $650 million.

There were other changes afoot in the early 1980s. The government faced increasing public dissatisfaction in the midst of economic recession and high unemployment.

The CTC Annual Report of 1983 announced a series of public hearings to be held in early 1984 to discuss air fare policy at Transport Minister Axworthy's request. It also announced an inquiry into intermodal and multimodal transportation services. And in a revision of its General Rules, the Canadian Transport Commission set new time limits for itself in issuing decisions.

In the closing days of 1983, the Canadian Transport Commission welcomed an old opponent into its fold. Jean Marchand resigned from the Senate, where he had spent the past seven years, to become the CTC president on December 16. Edgar J. Benson had completed his 10-year term on August 31, 1982, and had taken an ambassadorial post in Dublin. During the interim, the CTC's John T. Gray, vice-president-law, had filled in as president. The 65-year-old Marchand hardly had time to settle into his chair before there was a flurry of more changes.

---

42 Stephen Clarkson and Christina McCall, *Trudeau and Our Times*, Volume 1, p. 292, and Volume 2, p. 327-328.

The 1984 CTC hearings on Canadian air fare issues and domestic charters determined that there was need for a new air policy. Amendments to the *Air Carrier Regulations* governing domestic and international advance booking charters had been suggested. Another report on air services in northern regions, based on hearings held in June and July, stressed the necessity of providing better air service in remote areas between Labrador and the Yukon. Transport Minister Axworthy introduced a new Canadian air policy that year, implementing suggestions from the CTC hearings.

In the fall of 1984, the CTC held an inquiry into the effects in Canada of U.S. rail deregulation. The study had been requested by Axworthy "after two major Canadian railways reported revenue losses of $100 million to U.S. competitors." The *Staggers Act*, passed in the United States in 1980, freed the American railway industry from economic regulation and opened the way to competition. As the CTC reported, the inquiry found that "the rail regulatory systems of the two countries are no longer compatible and suggested a number of legislative changes to restore trans-border railway pricing harmony."

A federal election on September 4, 1984, brought in a new government under Brian Mulroney. One of the priorities identified by the Mulroney team in its campaign platform was transportation policy reform.

In July 1985, Transport Minister Don Mazankowski introduced a position paper on transportation in the House of Commons. It was called Freedom to Move — A Framework for Transportation Reform. The paper outlined sweeping revisions to transportation policy that involved reduced economic regulation and greater reliance on market forces. As the CTC Annual Report announced, "the effects on the Canadian Transport Commission will be dramatic."

The Annual Report quoted these words from Mazankowski's speech: "Economic regulatory reform in transportation is needed in Canada if it is to achieve economic renewal and growth to meet international competition. Canada's ability to achieve economic progress in the 1980s and 1990s will depend in a large measure on a productive and more efficient transportation system."

The Transport Minister continued, "It is the federal government's view that the changing environment of regulatory administration, coupled with the determination to reduce government interference in the marketplace, requires the establishment of a new regulatory agency as a successor to the Canadian Transport Commission."

The fate of the Canadian Transport Commission had been decided. It would be replaced by another agency with less regulatory authority. Jean Marchand resigned as president on July 31, 1985, soon after Mazankowski's policy paper was released. J. David Thompson, the CTC's vice-president-law, sat in the president's chair until Erik Nielsen was appointed in early 1987. Nielsen had been a Member of Parliament since 1957. He served in Joe Clark's short-lived government in 1979-1980 and then held several cabinet posts in the Mulroney government. In January 1987, he had resigned from the House of Commons to head the CTC.

While the new legislation was drawn up, the Commission continued with its daily workload. Mazankowski had asked the CTC's Western

Division to inquire into possible alternatives to railway branch lines in Canada. The objective, according to the CTC, was to find better ways to improve the effectiveness, efficiency and reliability of the railway system at a minimum cost. The Western Division issued a report on June 28, 1985, on alternatives to railway branch lines. The report found that branch-line subsidies had grown from $37.1 million in 1971 to $322 million in 1982. It also found that consideration had not been given to competition from other modes of transport. The report recommended a complete review of railway costing.

On June 26, 1986, Transport Minister Mazankowski introduced Bill C-18 in the House of Commons. It was the new *National Transportation Act* that would create an agency to replace the Canadian Transport Commission. Ironically, the CTC's Research Branch, created by Pickersgill back in 1967 to serve as an instrument of policy-making, had assisted the Mazankowski team in drafting the new legislation.

Among changes to the original Act of 1967, there were provisions for confidential contracts for railway shippers; increased intramodal competition; reduced regulation governing the commercial airline sector; rate arbitration for shippers and carriers; and protection of the unique nature of the North's air and marine transportation.

John Crosbie became Transport Minister on June 30, 1986, a couple of days after the *National Transportation Act* was tabled. He guided Bill C-18 and the accompanying Bill C-19, the new *Motor Vehicle Transport Act*, through Parliament.

THE TRANSPORT MINISTER CONTINUED, "IT IS THE FEDERAL GOVERNMENT'S VIEW THAT THE CHANGING ENVIRONMENT OF REGULATORY ADMINISTRATION, COUPLED WITH THE DETERMINATION TO REDUCE GOVERNMENT INTERFERENCE IN THE MARKETPLACE, REQUIRES THE ESTABLISHMENT OF A NEW REGULATORY AGENCY AS A SUCCESSOR TO THE CANADIAN TRANSPORT COMMISSION."

"With the late summer passage of Bill C-18," the CTC reported in the 1987 Annual Report, "and in anticipation of the new *National Transportation Act* becoming law on January 1, 1988, the commission began to phase out its activities." A transitional team was set up to accommodate the relocation of staff, which had grown in 1986 to almost 1,000 people.

AERIAL VIEW OF A WESTBOUND TRAIN NEAR KAMLOOPS, BRITISH COLUMBIA, 1975, CSTM/CN000559

Among the CTC's final decisions in December 1987 was the approval for CN and CP to operate their trains without cabooses. The prospect of trains running without cabooses seemed strange in those days. But once discarded, they were soon forgotten.

The Canadian Transport Commission would meet a similar fate. After 20 years, it had become obsolete. Under a new agency, Canada's transportation system would have "freedom to move".

SHIFTING GEARS

THE NATIONAL TRANSPORTATION AGENCY, 1988 TO 1996

+ 1988, the government divested Air Canada.

+ 1992, the *National Transportation Act* was amended to expand the role of the Agency with respect to making the federal transportation accessible to persons with disabilities.

+ February 24, 1995, Canada signed an "Open Skies" agreement with the United States.

The Canadian Transport Commission had moved across the Ottawa River to Hull in the late 1970s. More than 800 employees now occupied the top five floors of the fortress-like brick building at 15 Eddy Street. In its 20 years of existence, the CTC had amassed a large organization that would have to be overhauled to implement the government's new vision for transportation policy.

Erik Nielsen, a former Cabinet minister in Brian Mulroney's government, was appointed to head the new National Transportation Agency. Nielsen had a law degree and a Distinguished Flying Cross earned in World War II. He also had a reputation as a scrapper, picked up during a 30-year career in the House of Commons as the representative for Whitehorse, Yukon. His appointment signalled a changing of the guard, a guard that the Mulroney government decided had become entrenched in a regulatory system that was no longer viable.

As the Ottawa Citizen reported on November 28, 1987, "Transport Minister John Crosbie said he was fed up with regulations so severe

they required airlines to fill in a form 'to go to the bathroom.' So he hired Erik Nielsen."

Crosbie had outlined the agenda for change in a more serious vein on June 17, 1987: "The current regime was put in place in 1967. Since then, the world economy, the Canadian economy and Canada's transportation industry have changed significantly. The regulatory regime simply did not keep pace. As a result, at the present time it impedes rather than supports growth and development, it stifles competition in all modes of transportation, it reduces the competitiveness of producers and it hinders the free movement of goods and people."

Eleven of the 13 incumbents in the Canadian Transport Commission were given their walking papers in the restructuring that followed. The new Act called for a maximum of nine full-time Members, including a Chairman and Vice-Chairman, to be appointed by Cabinet for five-year renewable terms, and six part-time Members. To provide some regional representation, the Act required that there be one Member from each of five Canadian regions: Pacific, Prairie, Ontario, Québec, and Atlantic Region.

Micheline Beaudry, a Montréaler with management experience in energy and transportation, was appointed Vice-Chairman. Six other full-time Members were appointed to five-year terms. Two former members of the CTC were appointed as temporary Members.

The 1988 Annual Report indicates that the Agency did not skimp on staff training. "As employees were placed in new positions," the report stated, "considerable emphasis was placed on training to ensure that all employees understood their new responsibilities."

A government booklet, Freedom to Move, published in 1988, explained the Agency's role: "The powers of the new Agency are designed to ensure responsiveness to public interest, industry needs and policy direction from the government. The Agency has authority to grant transportation licences, review public complaints and help resolve disputes between shippers and transportation firms."[43]

The new Act stated that safety was a priority, that competition should be the prime force to drive the Canadian transportation industry, and that shippers and travellers should be the chief considerations in establishing policy. The Act also directed that competition should be not only intermodal (between different modes of transportation), but also intramodal (between carriers within a particular mode). Regional economic development was an expressed goal. Also, all modes should be treated fairly, and carriers should pay for facilities provided at the public's expense.

The new Agency's operations were restructured to reflect the Act's philosophy. Unlike the CTC, which had separate divisions set up according to transportation mode, the new Agency was divided into branches according to the duties performed. The Dispute Resolution Branch settled rate or service disputes and monitored acquisitions and mergers of transportation companies; the Market Entry and Analysis Branch was responsible for licensing within all modes;

43 *Freedom to Move in Canada's New Transportation Environment,* a series of pamphlets published in 1988 when John Crosbie was Transport Minister. The information quoted in the text comes from the pamphlet subtitled *the National Transportation Act* and the *Motor Vehicle Transport Act*.

A SHADOWY VIEW OF THE BACK OF FREIGHT BOAT SAILING AWAY INTO SUNSET, STOCK PHOTOGRAPHY HELD BY THE CANADIAN TRANSPORTATION AGENCY, © DIGITAL VISION

the Transportation Subsidies Branch dealt with subsidy payments, determination of western grain rates and railway rationalization proposals. The Legal Services, Corporate Management and Human Resources and the Secretariat branches provided relevant expertise and support to the other branches. Regional offices were set up in Moncton for the Atlantic Region, and Saskatoon for the Prairie Region.

The National Transportation Agency would continue to hold public hearings into transportation matters and settle disputes between shippers and carriers, but now only in response to specific complaints or at the government's request. The

Agency would also provide final-offer arbitration along with mediation, but the services would be offered only upon request.

"In most cases, the Agency can only take action upon request. In keeping with the emphasis on minimal regulation, it is intended to respond to problems rather than seek them out," the government booklet, *Freedom to Move*, explained.

The Agency no longer had a proactive role in policy-making, but was bound to follow the policy directives of government. As the booklet explained, "the Minister of Transport is accountable to Parliament for national transportation policy and for the actions of the Agency. The government may issue general policy or other binding directions to the Agency and may alter any decision, order or regulation made by the Agency."

With a move toward deregulation, the Agency's regulatory duties were also redefined.

As laid out by Transport Minister Lloyd Axworthy's Canadian air policy in 1984, air services were no longer required to prove "present and future public convenience and necessity," except in Northern Canada, where the airline industry was still considered fragile.

In the rest of Canada, an air service needed only to be "fit, willing and able," that is, able to operate a safe air service with proper insurance coverage. Earlier conditions regarding routes, schedules, fares and equipment had also been removed. Air services could now negotiate confidential contracts and they needed to give only 120 days' notice to reduce or stop service. In instances of monopolies in service, the public could appeal fares to the Agency.

The new Act reduced regulations in the rail sector so that shippers could negotiate confidential contracts with individual railway companies, and file the agreements with the Agency. The new Act required only that rates be compensatory to cover the actual cost of shipping. The interswitching limit was also extended, from 6.4 kilometres (four miles) set in 1908 to 30 kilometres (18 miles). Captive shippers beyond the 30-kilometre limit could ask their local carrier for a competitive line rate. If a rate could not be agreed upon, the Agency, on request, would set the rate.

The new *National Transportation Act* also made it easier for railway companies to sell an unprofitable line, and ensured a government subsidy to the public to establish other means of transportation where necessary. If a line had future economic potential, the Agency could order the railway company to continue service on a subsidy basis. If the line was found to be uneconomic, the railway companies had to give 90 days' notice of abandonment, during which time the public had 60 days to appeal. The Agency then had to make a decision within six months.

Marine transportation in the North was protected in the same way as northern air services. No new service would be allowed to enter an area that would endanger existing services. The Agency continued its other administrative duties in the filing of tariffs, under the *Pilotage Act* and the *St. Lawrence Seaway Act*, and would hold hearings in response to complaints.

A new assignment for the Agency was the monitoring of major company mergers and acquisitions in all modes of transportation. The Agency was also required to conduct annual reviews of the *National Transportation Act*. A major review of the Act was required in the fifth year of operation.

The new legislation stated that transportation services must be offered without undue obstacles to public mobility, particularly for travellers with disabilities. The Agency was instructed to investigate any complaints in that regard. In July 1988, the Agency was further empowered to prescribe, administer and enforce regulations for accessibility standards of persons with disabilities for all of the modes of transportation.

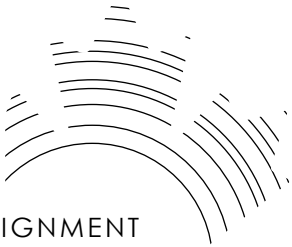
The creation of the Canadian Transportation Accident Investigation and Safety Board in 1989 removed the Agency's role in investigating railway accidents. But the Agency continued to distribute subsidies and set the annual rate scale for the movement of western grain.

In its first Annual Review, the National Transportation Agency reported that confidential contracting was the principal competitive mechanism used in the railway industry in 1988.

It also reported that fare wars continued throughout the year in the air industry. "The major airlines flew more passengers and transported more cargo farther, but fare competition forced yields downward with corresponding effects on cash flow and profits," the Agency reported.

In 1988, the government had sold Air Canada. The Annual Review remarked that "one of the most prominent developments associated with the deregulation of Canada's air transport industry in the 1980s has been the creation of two large carrier families headed by Air Canada and Canadian Airlines International." Canadian Airlines International was owned by Calgary-based PWA, formerly called Pacific Western, which had bought out CP Air in 1987.

When the Agency allowed Wardair, hurting and close to bankruptcy, to be purchased by PWA, the Montreal Gazette reported on January 20, 1989 that "air fares are bound to rise and fare wars are likely to be less frequent." But that prediction turned out to be wrong. Charter air services continued to enter and leave the market, creating enough competition for the major airlines that fare wars persisted.



A NEW ASSIGNMENT FOR THE AGENCY WAS THE MONITORING OF MAJOR COMPANY MERGERS AND ACQUISITIONS IN ALL MODES OF TRANSPORTATION. THE AGENCY WAS ALSO REQUIRED TO CONDUCT ANNUAL REVIEWS OF THE *NATIONAL TRANSPORTATION ACT*. A MAJOR REVIEW OF THE ACT WAS REQUIRED IN THE FIFTH YEAR OF OPERATION.

A PASSENGER INFORMATION REPRESENTATIVE ASSISTS TRAVELLERS AT TORONTO PEARSON INTERNATIONAL AIRPORT, ONTARIO

In response to the rapid turnover of charter air services, the Agency made revisions to the *Air Transportation Regulations* in 1991 to protect advance payments by consumers. The Agency also conducted field audits of tour operators and air carriers to ensure that the advance payments were adequately protected.

In 1988, VIA Rail's discount fares had become the focus of Agency hearings. The Voyageur bus company complained about VIA's proposed discounts in the Montréal-Ottawa-Toronto corridor. The bus company claimed that the fares would hurt its business, charging that VIA already had an unfair advantage because it was a Crown corporation with government funding. The Agency decided that the discount fares were prejudicial to the public interest, and recommended to Cabinet that an inquiry into VIA Rail's pricing policy be established.

An Agency inquiry into VIA pricing was halted in April 1989 when Transport Minister Benoit Bouchard announced a plan to slash funds to VIA Rail. The government's five-year plan would cut VIA passenger service in half, mainly in the Atlantic provinces. Bouchard also set up a Royal Commission on Passenger Transportation, under Lou Hyndman, a former Alberta Cabinet minister.

Meanwhile, the major railway companies continued to rationalize their lines. *The Montreal Gazette* reported on October 18, 1989, that "the National Transportation Agency has been besieged by a flood of applications for closing freight railway lines throughout Canada." According to the newspaper report, CN and CP were planning to close 65 freight lines covering 1,306 miles in 1989, "more than double the applications fielded in 1989 from all 15 railway companies."

CN had ceased railway operations in Newfoundland in 1988 and discontinued service in Prince Edward Island in 1992. By 1993, CP no longer had any railway lines east of Québec.

A *Southam News* report on July 23, 1991, questioned the success of transportation deregulation. "With airline losses up, competition down and gasoline prices and taxes higher, touring Canada this summer is costly." The report continued, "While deregulation was supposed to open Canada's skies to new airlines, the effect has been quite the opposite. This summer Canada's market is clearly dominated by Air Canada, Canadian Airlines International, a unit of Calgary's PWA Corp., and 11 regional airlines within their control." The Southam report dubbed the Canadian air industry a "duopoly."

But the Agency stated in its 1992 Annual Review that "in spite of apparent concentration in the industry, the level of domination at the route level has decreased considerably. There has been a significant reduction of the dominant carriers' market share on most Canadian routes, and no monopolization of key hub airports by dominant carriers."

In 1992, the *National Transportation Act* of 1987 was amended to include the words "accessible" and "persons with disabilities" in its declaratory clause. The amendment made the needs of travellers with disabilities an integral part of the Agency's jurisdiction.

In January 1992, the Agency released an interim report on the accessibility of federally-regulated ferries. An interim report on the accessibility of ground transportation at Canadian airports was issued in December of that year and a report on accessibility of motor coach services was released in May 1993.

CN HAD CEASED RAILWAY OPERATIONS IN NEWFOUNDLAND IN 1988 AND DISCONTINUED SERVICE IN PRINCE EDWARD ISLAND IN 1992. BY 1993, CP NO LONGER HAD ANY RAILWAY LINES EAST OF QUÉBEC.

Meanwhile, the fare wars being fought in the Canadian skies were making some people nervous. PWA had announced in 1992 that Canadian Airlines was in financial trouble and that it was looking for a buyer. When negotiations for a merger with Air Canada failed, PWA started talks with the U.S.-owned American Airlines.

On September 12, 1992, NDP Leader Audrey McLaughlin, was quoted by *Southam News*, after a debate in the House of Commons over airfare wars, as saying: "if we do not have some kind of regulation, the only thing we'll have flying over Canadian airspace will be Canadian geese."

However, the Mulroney government held its ground on deregulation, and federally funded research supported its stand.

On November 19, 1992, the Royal Commission on National Passenger Transportation, chaired by Lou Hyndman, released its report. "Government departments should no longer own, finance, maintain or operate Canada's transportation system," the report recommended. "It must be supported by travellers and not by taxpayers."

The Hyndman Commission recommended the withdrawal of government transportation subsidies, the application of a user-pay concept, and a restriction of the government's role in transportation to policy-making.

Meanwhile, the Agency said goodbye to Erik Nielsen when his five-year term finished on November 31. With Nielsen's departure, Vice-Chairman Micheline Beaudry became the acting Chairman.

The government, meanwhile, appointed a lawyer from Québec City to head a review committee of the *National Transportation Act*. Gilles Rivard's committee would conduct the mandatory five-year review of the Act. Included in the review would be an assessment of the operations of the Agency. The Rivard committee report, released on March 9, 1993, found that the *National Transportation Act* of 1987 had accomplished much of what it had set out to do. But the committee encouraged the government to move even further toward deregulation by opening Canada's transportation sector to more competition.

Rivard told *The Canadian Press* on March 9 that deregulation was working: "The changes, while painful, were necessary. Canadian shippers and travellers are benefiting."

The review committee recommended that the air sector be opened to more foreign investment and that if a monopoly developed in the domestic market, foreign carriers should be allowed to enter. In the railway sector, the committee recommended privatization of CN and more liberal rationalization rules so that railway companies could reduce costs more quickly. The committee also recommended that CP and CN should be encouraged to share trackage.

For the National Transportation Agency itself, the review committee recommended an examination of its organization, and its human and financial resources. The staff of the Agency had been greatly reduced since the days of the Canadian Transport Commission. In 1986, the CTC had more than 800 employees and an administrative budget of $43 million. By 1992-1993, the Agency operated with 508 employees and a budget of $35 million.[44] But with the Agency's reduced regulatory role, the committee suggested that it be assessed for cost-effectiveness and efficiency.

On March 16, 1993, a week after the National Transportation Agency Review Committee Report was released to the public, Rivard was appointed chairman of the Agency. Meanwhile, the Rivard committee's report was sent to the Parliamentary Standing Committee on Transport, and further consultations were held.

The Agency was reorganized that year to create departments along modal lines that included the Rail Branch, the Air and Accessible Transportation Branch and the Marine, Trucking and Regulatory Operations Branch. Legal Services, the Secretariat and Communications Services were merged into another branch, while Corporate Services was combined with the Planning, Review and Quality Management and Internal Audit branches.

On May 27, 1993, the Agency issued a major decision allowing AMR Ltd., owner of American Airlines, to buy a 33 per cent stake in Canadian Airlines, ruling that the airline would remain Canadian owned and controlled. On June 24, the federal Cabinet upheld the decision, dismissing an appeal by Air Canada.

A fall election in 1993 brought Jean Chrétien to power. While the new government settled in to work, the Agency was conducting hearings into another complaint from the Voyageur bus company about VIA Rail's discount fares. Voyageur continued to complain that the Crown corporation had an unfair advantage and that by cutting fares in Ontario and Québec, VIA damaged the bus company's business. The Agency decided this time that VIA's discount fares did not endanger the bus business.

On December 1, 1993, the *Coasting Trade Act* was enacted, in which the Agency would recommend to the Revenue Minister whether foreign vessels should receive temporary licences for work in Canadian waters, taking into account whether Canadian vessels were available.

On June 3, 1994, Transport Minister Douglas Young delivered a policy statement in the House of Commons: "The current transportation system is becoming a handicap rather than an advantage to Canadian businesses and consumers. We must modernize quickly. Much of our system is overbuilt and we can no longer afford it."

---

44 Margaret M. Hill, "*Recasting the Federal Transport Regulator: The Thirty Years' War, 1967-1997*", an essay contained in the book, *Changing the Rules: Canadian Regulatory Regimes and Institutions*, G. Bruce Doern, editor, p. 57.

A PASSENGER WITH VISUAL IMPAIRMENT AND GUIDE DOG ABOARD A VIA RAIL TRAIN © CANADIAN TRANSPORTATION AGENCY

Young pointed out the flaws in the transportation system, echoing concerns that had been raised in the past. "We have too much spare capacity — too many 'empty cars' that are not being utilized. Many services are now being heavily subsidized and for the wrong reasons. The profitability and long-term viability of many segments of the industry are in peril. Intermodal links are more preached about than used. Clients of our systems are being shielded from the real costs that are being subsidized by taxpayers. The environmental consequences of transportation, especially in urban areas, are becoming more acute."

Young pointed out that Canadian taxpayers in 1994 were directly subsidizing the federal transportation system to the tune of $1.6 billion, and to the tune of $700 million in indirect subsidies. Young also said, "We support the government's overall review of boards and agencies, including the National Transportation Agency." He added, "We intend to eliminate outdated, unnecessary and often stifling regulations."

The government had set its goals for transportation policy. The coming months would reveal how successful it would be in implementing them.

CP and CN had been negotiating a merger of their freight services east of Winnipeg and Chicago. Their negotiations broke down in July 1994. CP then offered to buy CN's rail operations east of Winnipeg. That bid was rejected by the government. In September, Transport Minister Young set up a task force to consider privatizing CN.

The Agency's 1994 Annual Review expressed some optimism that Canada's economy was recovering from a lingering recession amid reports of higher traffic in all modes of transportation. The Annual Review also noted an increase in intermodal transportation as shippers used more than one mode of transportation to deliver goods.

An intermodal complaint had come to the Agency's attention early in 1994. CN claimed that the purchase of Montréal's troubled Cast container shipping company by Canadian Pacific would hurt competition on the main transportation route from North America to Europe. CN claimed that merging the two companies would involve 80 per cent of container business at the port of Montréal, which was the largest container port in Canada. The Agency decided, however, in favour of the purchase and Canadian Pacific bought Cast in March 1995.

Meanwhile, the Canadian government signed an "Open Skies" agreement with the United States on February 24, 1995, that allowed unlimited access of airlines between the two countries.

On February 27, 1995, three subsidy programs administered by the Agency were put on the chopping block. Finance Minister Paul Martin announced in the federal budget that railway subsidy programs established under the *Western Grain Transportation Act*, the *Maritimes Freight Rates Act* and the *Atlantic Region Freight Assistance Act* would be cut in the summer.

On June 20, 1995, Transport Minister Young tabled Bill C-101, otherwise known as the *Canada Transportation Act*, that would continue the National Transportation Agency as the Canadian Transportation Agency.

A story in the *Ottawa Citizen* a week later, on June 28, reported that the National Transportation Agency "has to cut 200 of its 500 jobs over the next 18 months." The Agency was attempting to find work for its employees in other government offices.

On November 2, 1995, the *Ottawa Citizen* reported that "hard economies dictated CP's relocation to Calgary from Montréal where it was created 127 years ago." The *Citizen* explained that the area between Thunder Bay and the Pacific Ocean generated 80 per cent of CP's revenue.

Ironically, the western rail line that had been so unprofitable for the railway company for so many years in its first century had now become the railway company's main source of revenue.

On December 14, when the Transport Minister announced plans for a new *Marine Act* in the House of Commons, he was in an optimistic mood about Canada's transportation system. Young listed the government's recent achievements in the area: an agreement with NAV Canada to commercialize Canada's air navigation system; an international air transportation policy to ensure that Canadian carriers made use of the routes they were allotted; the signing of the "Open Skies" agreement with the United States; the privatization of CN; and the elimination of $700 million in subsidy payments under the *Western Grain Transportation Act* and the Atlantic Region Freight Assistance program.

The *Canada Transportation Act*, also called Bill C-14 (formerly C-101), went to third reading on March 25, 1996. It received royal assent on May 29.

The new *Canada Transportation Act* essentially reiterated the same policy that had been declared in the earlier *National Transportation Act*. But the Act introduced regulations that would transform the Agency itself. As the Agency's Annual Report for 1996 related, "what made these changes exceptional was the magnitude of their impact."

ON JUNE 20, 1995, TRANSPORT MINISTER YOUNG TABLED BILL C-101, OTHERWISE KNOWN AS THE *CANADA TRANSPORTATION ACT*, THAT WOULD CONTINUE THE NATIONAL TRANSPORTATION AGENCY AS THE CANADIAN TRANSPORTATION AGENCY.

REACHING OUR CENTENARY

THE CANADIAN TRANSPORTATION AGENCY, 1996 TO 2004

+ July 1, 1996, regulation of motor vehicle transport and commodity pipelines was removed from the Agency's mandate.
+ August 2000, Canada's first Air Travel Complaints Commissioner was appointed.
+ December 21, 2000, Air Canada was allowed to take control of Canadian Airlines.
+ September 11, 2001, terrorist attacks in the United States using highjacked commercial airlines changes air travel forever.

The *Canada Transportation Act* was proclaimed on July 1, 1996, when, as the *Ottawa Citizen* reported, "For one sweet day, there were no clouds in the sky and few in the minds of 140,000 Canada Day revellers who packed Parliament Hill to mark the nation's 129th birthday."

Spring had been slow in coming and then the cool, wet weather lingered into summer.

As the Annual Report for that year related, the National Transportation Agency was dealing with the upheaval involved in reducing a staff of 500 by almost half. "The closure of the National Transportation Agency's Moncton office presented a particular challenge, as this office administered the Atlantic Region's transportation assistance program. Employees in Moncton had the demanding task of closing the books on the subsidy program, while their jobs were being terminated."

According to the *Canada Transportation Act*, the Canadian Transportation Agency, which began operations on July 2, would be a streamlined version of its former incarnation. The Agency membership was reduced to a maximum of seven full-time Members appointed by Cabinet for a maximum term of five years, and a maximum of three part-time Members appointed by the Minister of Transport. The requirement of regional representation among the Members was removed along with the regional offices.

Marian Robson, who had joined the National Transportation Agency on March 27, 1995, was appointed Chairman. Mrs. Robson had 25 years of experience in the transportation field, including executive positions in the Canadian port system, as a manager for CN and, in the 1970s, as special assistant to Transport Minister Otto Lang. Jean Patenaude, a policy adviser at Transport Canada, was appointed to the Agency as Vice-Chairman. Two Members moved from the old Agency to the new.

The existing national transportation policy had remained largely intact in the *Canada Transportation Act*: namely, that "a safe, economic, efficient and adequate network of viable and effective transportation services accessible to persons with disabilities and that makes the best use of all available modes of transportation at the lowest total cost is essential to serve the transportation needs of shippers and travellers, including persons with disabilities, and to maintain the economic well-being and growth of Canada and its regions."

The Agency would continue in its role as a quasi-judicial tribunal and an economic regulator with responsibilities that included issuing licences to air carriers and railway companies, resolving disputes over various air, rail and marine transportation rate and service matters, and the determination of the annual maximum rate scale for Western grain movements. The Agency also had powers to remove undue obstacles to the mobility of travellers with disabilities.

The *Canada Transportation Act* provided for an easier process for railway companies to sell railway lines or to discontinue service; eliminated the Agency's role in monitoring mergers and acquisitions of rail carriers and airlines; removed railway subsidies for continuing uneconomic freight and passenger service; and removed entry restrictions for Northern air services so that all domestic air service was put under the same licensing regime.

Regulation of motor vehicle transport and commodity pipelines was removed from the Agency's mandate. The Agency was given a new role in consumer protection with a financial fitness requirement for air services. Under the new Act, air services were prohibited from advertising if they did not have a licence. The Act required the Agency to make a decision in a timely manner, allowing no more than 120 days from the receipt of an application or a complaint. The Agency was also granted the authority to levy fines for non-compliance with regulatory provisions.

The *Canada Transportation Act* required the Agency to conduct an annual assessment of the Act and to report on any difficulties observed in its administration. This requirement provided a checkpoint for the Agency to report loopholes encountered in the Act, as had been the case in the Atlantic subsidies program under the previous legislation.

As the Canadian Transportation Agency opened its doors, the approach of the new millennium presented a whole new array of challenges in Canada's transportation system. An aging population raised increasing concern about the need to make transportation accessible to people with disabilities. Passenger air travel was expanding in a fiercely competitive market at the international level, while on the domestic side Air Canada and Canadian Airlines were the major players in a market that saw little growth. A balance would have to be maintained between the twin objectives of encouraging competition and protecting Canadian interests.

Rail and marine carriers were exploring new frontiers in intermodal container traffic. Meanwhile, as the two major freight railways companies, CP and CN, sold off their branch lines, short-line railway operations were springing up in large numbers.

But even as the Agency was adapting to meet these new challenges, it still was occupied with many of the same concerns that had brought about the creation of the first Board of Railway Commissioners almost 100 years before. One of the first major complaints addressed to the Agency involved the railway companies' movement of grain for export markets. That complaint would also eventually lead to some amendments to the Act.

On April 14, 1997, the Canadian Wheat Board filed a complaint with the Agency against CP and CN, claiming that they had not fulfilled their service obligations and that farmers had incurred transportation-related losses of more than $50 million that winter. After several delays, a two-month Agency hearing began in Saskatoon on March 30, 1998, with CP involved. CN had settled earlier with the Wheat Board, paying an undisclosed figure in compensation. On September 30, 1998, the Agency decided that CP had not met its service obligations for westbound traffic, had breached some aspects in regards to U.S. bound traffic, but had met its service obligations for eastbound traffic. The Agency also found that weather-related disruptions had hampered traffic in the westbound corridor. The Agency concluded that no relief was necessary for the Wheat Board.

RAIL AND MARINE CARRIERS WERE EXPLORING NEW FRONTIERS IN INTERMODAL CONTAINER TRAFFIC. MEANWHILE, AS THE TWO MAJOR FREIGHT RAILWAYS COMPANIES, CP AND CN, SOLD OFF THEIR BRANCH LINES, SHORT-LINE RAILWAY OPERATIONS WERE SPRINGING UP IN LARGE NUMBERS.

AIRPLANE PARKED AT TERMINAL 3 OF THE TORONTO PEARSON INTERNATIONAL AIRPORT, ONTARIO

In December 1997, Minister of Transport David Collenette had appointed Supreme Court Justice Willard Estey to undertake a review of the grain transportation and handling system. Estey's report in December 1998 called for a more commercial grain-delivery system that continued to protect the public interest. Arthur Kroeger, a former deputy minister of Transport, was appointed in May 1999 to develop a system of grain-transportation reforms. Kroeger sought the Agency's help in estimating transportation costs and to determine the extent to which the railway companies shared their profits with shippers. Among Kroeger's recommendations, submitted to the Transport Minister in September 1999, was a cap on railway grain revenues.

On August 1, 2000, the government passed Bill C-34, which replaced the regulation of maximum rates for the movement of grain with

a regulation of maximum revenues, or a revenue cap, that CN and CP could earn for the movement of grain. The Agency was given responsibility for establishing the revenue cap each year.

Bill C-34 also put a limit on the tariff rates for grain originating on branch lines, provided for longer notice and negotiation periods for discontinuance and transfers of service and included provisions for level-of-service complaints on branch lines. The Bill also gave the Agency the power to grant running rights in level-of-service complaints.

The new legislation also improved the final-offer arbitration process, making it more efficient and extending it to designated commuter authorities and to passenger railway service. In ruling on procedural matters, the Agency could defer the appointment of an arbitrator. There were also provisions for simultaneous submission of offers, the option of using three arbitrators, and a streamlined process for disputes valued at less than $750,000. The bill also required that the Agency's list of arbitrators include information about their specific areas of expertise.

Although the Agency continued to hold formal hearings into a variety of complaints, it began to look for speedier, more efficient ways to deal with disputes. In 2000, a pilot project was started in the Rail and Marine Branch, in which mediation was used to settle disagreements between two parties, without the time and cost of public hearings. The Agency began to train mediators, and made them available upon request, to shippers, carriers and other parties.

Meanwhile, the Agency's role in the marine sector had undergone other changes. In 1998, the *Canada Marine Act* established new port authorities, handed over some ports and harbours to local governments, commercialized the St. Lawrence Seaway and created the Federal Bridge Corporation to manage federal bridges. The Agency, for its part, would be responsible for investigating any complaints regarding changes in tariffs or fees at the new facilities.

Another provision in the *Canada Marine Act* called for a ministerial review of the pilotage system. At the request of the Transport Minister, the Agency conducted the review, which specifically looked at the training and licensing of pilots; compulsory pilotage area designations; and measures related to financial self-sufficiency and cost reduction. The Agency issued a report in August 1999 with 21 recommendations. Among other things, the Agency suggested that pilotage authorities use a risk-based methodology to establish criteria for compulsory pilotage. The Agency's recommendations were adopted and tabled in Parliament in November 1999. Transport Canada then developed the Pilotage Risk Management Methodology, which could be applied consistently by all four authorities.

In November 2001, an amendment to the *Shipping Conferences Exemption Act* changed the Agency's role in that area. The Act exempts shipping conferences from the *Competition Act* and allows them to set common tariffs and conditions of carriage. The amendment removed the requirement that shipping conferences file tariffs with the Agency, requiring them only to make their tariffs available to the public electronically.

Transport Canada statistics in 1999 showed a sharp rise in air passenger travel since 1987, most of that to points outside Canada, with less growth

in the domestic market.[45] Despite the expansion in air travel, however, Canadian Airlines was teetering close to bankruptcy that year. After a series of negotiations with different parties, it became apparent that Canadian Airlines might negotiate a merger with Air Canada.

In anticipation of the re-establishment of an air monopoly in Canada, Transport Minister David Collenette introduced *A Policy Framework for Airline Restructuring in Canada* on October 26, 1999. The policy laid out a series of conditions necessary for the Air Canada-Canadian Airlines agreement to be permitted, including one that required Air Canada to continue all of Canadian Airlines' routes for at least three years. On December 21, Air Canada was allowed to take control of Canadian Airlines.

On February 17, 2000, Collenette tabled the new policy in the House of Commons. Bill C-26 would, among other things, give the Agency increased authority to review passenger fares and cargo rates on monopoly routes, to review domestic terms and conditions of carriage and to require notice of discontinuance of services on monopoly domestic routes.

The return to a dominant-carrier situation was now making it necessary to increase regulatory powers for the Agency to ensure competition. It was a far cry from the days of C.D. Howe when regulations were put in place to deter competition for Air Canada's predecessor, Trans-Canada Air Lines.

Air Canada's takeover of Canadian Airlines inevitably caused some turbulence, despite efforts toward a smooth transition. On July 9, 2000, the *Montreal Gazette* described the early days of the new service: "A growing number of people now hate to fly." The *Gazette*'s description of the chaotic conditions included "longer lineups, more lost luggage, more delays, declining quality of meals and frequent over-booking." An Air Canada employee told the newspaper that "efforts to integrate the airlines' operations are nothing short of Herculean."

Bill C-26 had, luckily, foreseen the need for some assistance to airline customers who were increasingly frustrated by airline problems. The position of an Air Travel Complaints Commissioner was created to work within the Agency to review and attempt to resolve complaints of airline customers. The first appointee to the position, on August 1, 2000, was Bruce Hood, a travel agency owner, president of the Association of Canadian Travel Agents (Ontario branch) and a board member with the Travel Industry Council of Ontario. Mr. Hood explained his new task as being an "airline referee," borrowing the term from his former career as a National Hockey League referee for 21 years.[46]

As Transport Minister Collenette explained, "The government and the members of the House of Commons Standing Committee on Transport agreed that there needed to be someone in the federal machinery of government to act as the champion for consumers who are dissatisfied with their treatment by airline companies.

45 Statistical information obtained from Transport Canada charts, printed in Vision and Balance, Report of the *Canadian Transportation Act* Review Panel, published in 2001, pp. 114-5.
46 *Montreal Gazette*, August 2, 2000.

A COASTAL PILOT DISEMBARKING A VESSEL AT BROTCHIE LEDGE, VICTORIA, BRITISH COLUMBIA, 2003

The key duties of the Commissioner will be to review complaints, to ensure that all alternative solutions have been exhausted and, where appropriate, to mediate an outcome that satisfies both the consumer and the airline."

The Commissioner was required to make semi-annual reports to the Transport Minister, listing the complaints received and the carriers involved, and highlighting any systemic problems detected in the airline industry. By the end of the year, the Air Travel Complaints Commissioner had received more than 1,200 complaints, many of them about quality of service, lost luggage and scheduling problems.

As time passed and the new office became more widely known, complaints would increase and their substance would vary. One kind of complaint, so-called air rage, arose from disputes about how airlines handled unruly passengers. Airlines had the right to impose sanctions on passengers; in fact, they could refuse to carry them. However, the airlines were required to establish in their tariffs the sanctions they would use for unruly passengers.

Air Canada, in the closing days of 2000, was feeling the strains of its expansion and had announced plans to cut jobs and raise air fares. WestJet, a discount carrier that had started operations in Western Canada in February 1996, had better news.[47] It had expanded eastward and was managing to make a profit. Competition on the domestic scene was alive and well, both in the scheduled and charter air businesses, but Air Canada was having cash-flow problems.

A major part of the Agency's mandate was to ensure that there were no undue obstacles in the transportation system for people with disabilities. In 1995, the Agency had established the Personnel Training for the Assistance of Persons with Disabilities Regulations. The *Air Transportation Regulations* also addressed terms and conditions for carrying persons with disabilities. Agency inspectors monitored carriers and facilities across the country to ensure that the regulations were followed.

47 *Montreal Gazette*, December 22, 2000.

A CANINE FROM GREATER TORONTO AIRPORTS AUTHORITY CANINE SERVICE UNIT INSPECTS LUGGAGE AT TORONTO PEARSON INTERNATIONAL AIRPORT, ONTARIO, 2002

The Agency was also working on codes of practice for the transportation industry. The codes were intended to encourage voluntary compliance within the industry rather than using a regulatory approach. In November 1996, the Agency launched its first code of practice, Aircraft Accessibility for Persons with Disabilities. The Air Code, applicable to operations using aircraft with more than 30 seats, was followed by Codes of Practice in the marine and rail sectors. The Rail Code was introduced in February 1998, and in June 1999 the Code of Practice for Ferry Accessibility for Persons with

Disabilities came into effect. The codes outlined areas where transportation facilities and equipment should be improved, including features such as handrails, elevators, lighting, lettering on signs and provisions for wheelchairs. As the codes went into effect, the Agency carried out monitoring surveys to assess industry compliance.

In 2002, the Agency finished work on a new Code of Practice called Removing Communication Barriers for Travellers with Disabilities (Communication Code). The Communication Code set criteria for improving communications and access to information for travellers with disabilities. It would apply to air, rail and ferry transportation service providers and terminals.

The Agency developed an education program for the transportation industry and for consumers with disabilities and provides workshops and reading material on an ongoing basis to increase awareness. An Accessibility Advisory Committee, with representatives from disability groups, government agencies, the transportation industry and other interested people, was originally established on January 30, 1990, as the Equipment Accessibility Committee. The Committee offers guidance to the Agency in developing regulations, codes of practice, and industry guidelines on accessibility. The Agency meets annually with the Committee and consults it regularly on regulatory projects.

In addition to the regulations and codes of practice designed to address systemic barriers to the mobility of persons with disabilities in the federal transportation network, the Agency addressed an increasing number of complaints from persons with disabilities. Some of these complaints raised jurisdictional questions as to whether certain health conditions constitute disabilities for the purposes of the *Canada Transportation Act*.

In 1997, Linda McKay-Panos complained about the seating accommodation provided to her by Air Canada and the carrier's policy of charging passengers for additional seating because of obesity. Before considering the complaint, the Agency needed to determine that obesity was in fact a disability for the purposes of the *Canada Transportation Act*. The Agency issued a decision in December 2001 that obesity in itself is not a disability for the purposes of the Act, but that there might be individuals who are obese and have a disability for the purposes of the Act. The Agency decided to rule on obesity complaints on a case by case basis. In the McKay-Panos case, the Agency ruled, in a split decision on October 23, 2002, that the Calgary resident did not have a disability for the purposes of the Act. The complainant appealed that decision to the Federal Court.

In another obesity case, also involving seating on Air Canada, the Agency decided on December 17, 2002 that the person had a disability for the purposes of the Act. However, the Agency found that Air Canada provided another seat for the passenger, and so there was not an obstacle to the person's mobility. The Agency had received other obesity complaints against both Air Canada and VIA Rail, but those cases would not be heard until the Federal Court ruled on the McKay-Panos appeal.

VIEW OF CONTAINER SHIP FROM PILOT BOAT NEAR BROTCHIE,
VICTORIA, BRITISH COLUMBIA, 2003

The Agency decided on May 10, 2002, in response to several complaints, that an allergy in itself is not a disability for the purposes of the Act, but that there might be people who, because of allergies, have a disability for the purposes of the Act. The Agency decided, in other words, to consider allergy applications on a case by case basis.

IN ANOTHER OBESITY CASE, ALSO INVOLVING SEATING ON AIR CANADA, THE AGENCY DECIDED ON DECEMBER 17, 2002 THAT THE PERSON HAD A DISABILITY FOR THE PURPOSES OF THE ACT.

In another precedent-setting case, the Council of Canadians with Disabilities filed an application with the Agency regarding the accessibility features of passenger cars purchased by VIA Rail in 2000. The Council complained that several features on the Renaissance cars created undue obstacles to the mobility of persons with disabilities.

In a March 27, 2003 decision, the Agency determined that, on a preliminary basis, there were 14 "undue" obstacles, but that it would offer VIA a further opportunity to submit evidence before finalizing the determinations. On October 29, 2003, the Agency issued its final decision, finding 14 undue obstacles. VIA appealed the decision to the Federal Court.

New methods of dealing with complaints were introduced by the Agency in recent years. The mediation pilot project, started earlier in the rail and marine sectors, was introduced to the Accessible Transportation Branch in 2002. The Agency also began an experiment with modified hearings, in which Members met disputing parties in a more informal setting than the traditional hearing process. Both parties of a dispute gave oral presentations, and Members questioned the parties directly, avoiding the paperwork, cost and more lengthy process of formal hearings.

In June 2000, Transport Minister David Collenette established a panel to carry out a five-year review of the *Canada Transportation Act*. The panel, headed by Brian Flemming, a lawyer and former policy adviser to Prime Minister Pierre Elliot Trudeau, received more than 200 written submissions from interested parties, held public hearings across the country and set up an interactive Web site. It also commissioned 50 research studies on specific transportation issues.

Vice-Chairman Jean Patenaude left the Agency to sit on the review panel. Gilles Dufault, who had joined the Agency in 1998, was appointed Vice-Chairman with special responsibilities in the area of air travel complaints. Mr. Dufault, who had been an adviser to Prime Minister Trudeau and an executive at VIA Rail, had more than 20 years of experience in senior management in both the private and public sectors.

STOCK PHOTO HELD BY THE CANADIAN TRANSPORTATION AGENCY © DIGITAL VISION

On July 18, 2001, the Transport Minister tabled the panel's report in the House of Commons. It was a wide-ranging report that recommended further deregulation of the transportation industry, and a move toward greater competition including, in the air sector, that foreign ownership be allowed to increase to 49 per cent from 25 per cent.

In the rail sector, panel recommendations included removing the onus on a shipper of proving "substantial commercial harm" in the case of a complaint, and that the grain handling and transportation system be put on a more commercial basis, which might include removing the revenue cap on grain rates. For VIA Rail, the panel suggested, among other things, that the Québec-Windsor corridor, the most profitable part of the operation, be separated from the rest of VIA and be allowed to move toward a more commercial, cost-recovery basis.

The main thrust of the panel review was that Canada's transportation networks were moving in the right direction, but that government policy could promote more deregulation.

Besides safety and economics, the panel pointed to other important considerations: "environmental goals, sustainable development, efficiency in energy use, co-ordination and integration of modes, and policies to sustain rural communities."

On September 11, 2001, less than two months after the release of the report, passenger jets hijacked by terrorists crashed into the World Trade Center in New York City, the Pentagon near Washington and a field in rural Pennsylvania, sending the global airline industry into a tail spin. Two months later, Canada 3000, described in the review panel's report as the largest charter carrier in Canada, declared bankruptcy.

The September 11 tragedy had sent shudders through the world's financial markets, already hit by a crash in the high-tech industry and scandals involving major U.S. corporations. The invasion of Afghanistan by a Western coalition including Canada, added to the recessionary atmosphere.

The Agency's Annual Report of 2002 stated that "major airlines around the world struggled with huge financial losses and insolvency in 2002, as the troubled air industry continued to be squeezed by lower demand and higher operating costs."

In 2004, as the Canadian Transportation Agency celebrated its centennial year, the transportation industry continued to evolve. In the final days of 2003, Air Canada's financial situation was still unresolved after it had been granted creditor protection in April. Also, CN had purchased BC Rail, one of Canada's largest railway companies.

It was clear that regulating transportation in the 21st century was going to involve new challenges. But whatever the future was to bring, the Agency started its second century determined to adapt to the needs of the national transportation system and the Canadian travellers and businesses that relied on it.

THE MAIN THRUST OF THE PANEL REVIEW WAS THAT CANADA'S TRANSPORTATION NETWORKS WERE MOVING IN THE RIGHT DIRECTION, BUT THAT GOVERNMENT POLICY COULD PROMOTE MORE DEREGULATION.

CHANGES AND CHALLENGES

- 2005, abrupt Jetsgo airline collapse puts national spotlight on air passenger rights.
- March 23, 2007, the Supreme Court of Canada upholds the Agency's decision ordering VIA Rail to make its trains accessible and confirms the "human rights" nature of the Agency's accessibility mandate.
- June 6, 2013, the challenge of creating transportation policy got tougher. Lac-Mégantic derailment disaster focuses national attention on rail safety.
- May 29, 2014, *Fair Rail for Grain Farmers Act* responds to a significant backlog in grain delivery to export ports.

THE CANADIAN TRANSPORTATION AGENCY, 2004 TO 2014

In the wee hours of the morning on Friday, March 11, 2005, Montréal-based airline Jetsgo abruptly ceased operations. Thousands of passengers were stranded on the eve of the March holiday break, one of the busiest travel seasons of the year.

Calls began pouring into the Agency — close to 140,000 in one day — and Agency staff kicked into high gear. They provided the public with timely advice about their options, rights and recourse. All weekend, the Agency issued charter permits on a priority basis to allow alternative airlines to transport stranded Jetsgo passengers. And in the following months, staff replied by letter or email to nearly 800 individuals who filed complaints.

The Agency had recently inherited responsibility for processing complaints about airlines from the office of the Air Travel Complaints Commissioner, created to help consumers during the transition following Air Canada's acquisition of Canadian Airlines International.

In five years of operations, the Commissioner's office had handled more than 8,000 complaints about poor quality of service, flight disruptions, baggage damage and loss, and ticketing problems. In the 2005 federal budget, the government directed the Agency to integrate the passenger complaints process into its daily operations.

To help consumers, the Agency subsequently developed Fly Smart and other educational programs to provide consumers with travel tips and alert them that they must try to resolve complaints with an airline directly before the Agency would step in to help.

In early spring, the government put transportation back on Parliament's agenda, incorporating many proposals from previous governments and recommendations from the 2001 review of the *Canada Transportation Act*.

It was time to modernize and simplify the National Transportation Policy — the statement of principles prefacing the *Canada Transportation Act* since 1996. Changes were also in the works for the Agency, among them a new slate of executives.

Robson completed her ten-year term as Chair and Chief Executive Officer in June 2006.

The Agency's permanent members, appointed for five-year terms, were reduced from seven to five, plus up to two temporary members for one-year terms. The new government appointed a fresh slate of members.

Geoffrey (Geoff) C. Hare was appointed Chair and Chief Executive Officer on February 12, 2007. He was a seasoned public-sector executive with a broad range of senior management experience.

Hare had spent more than 25 years within the Ontario government and its agencies, with responsibilities for marketing Ontario internationally, economic strategies, and public infrastructure planning and investment. He had most recently been the first Deputy Minister of the Ontario Ministry of Public Infrastructure Renewal.

"The Canadian Transportation Agency and its predecessors have been directed by statements of national policy that have evolved to recognize competition and market forces as the prime agents in providing viable and effective services," Hare said in his first Annual Report. "Regulation has been assigned roles where necessary to achieve accessibility and efficiency across the transportation system."

He was referring to Parliament's update of the National Transportation Policy in June 2007 which gave more prominence to "competition and market forces" and stated for the first time that policy objectives are best served when "governments and the private sector work together for an integrated transportation system."

At the same time, environmental, social and security objectives were added to the Policy as appropriate grounds for regulation and strategic public intervention.

Among environmental concerns cited by MPs were complaints from constituents over "noise pollution" from railway marshalling yards. Another was the growing acknowledgement that public transportation services were increasingly important to help reduce traffic congestion, lower greenhouse gas emissions and improve quality of life in Canada's cities.

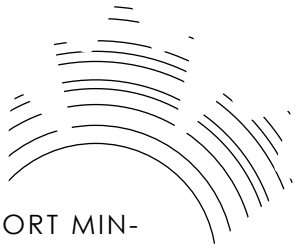
JETSGO MD-83 PREPARING TO BE TOWED INTO A HANGAR AT TORONTO PEARSON INTERNATIONAL AIRPORT, FEBRUARY 2005. (PHOTO: DUKE. USED UNDER CREATIVE COMMONS LICENCE.)

Such urban issues prompted new mandates for the Agency.

Transport Minister Lawrence Cannon introduced legislation in 2007 addressing high-priority proposals that aim "to strike a balance between the interests of communities, consumers, commuters, public transit companies, and air and rail carriers."

One priority was to give communities a place to turn for disputes about railway noise and vibration. As early as 1998, communities had begun approaching the Agency for help in resolving their railway noise complaints. But late in 2000, the Federal Court ruled that the Agency lacked jurisdiction in this area and overturned its orders. Parliament resolved this issue in 2007 by giving the Agency authority to deal with noise and vibration complaints related to federal freight railways or public passenger service providers. Examples of noise sources were railway construction and operations, passing trains, idling locomotives, and shunting. While the Agency could intervene, collaboration was the watchword.

Over the next few years the Federation of Canadian Municipalities and the Railway Association of Canada, with advice from the Agency, developed a 'local dispute resolution framework.' It promoted proper planning and communications as well as ways to resolve unanticipated problems during the expansion of rail facilities.



TRANSPORT MINISTER LAWRENCE CANNON INTRODUCED LEGISLATION IN 2007 ADDRESSING HIGH-PRIORITY PROPOSALS THAT AIM "TO STRIKE A BALANCE BETWEEN THE INTERESTS OF COMMUNITIES, CONSUMERS, COMMUTERS, PUBLIC TRANSIT COMPANIES, AND AIR AND RAIL CARRIERS."

The legislation also gave the Agency authority to decide such matters as compensation and the use of railway equipment and facilities when a publicly-funded passenger service provider and a railway company could not negotiate a commercial agreement. Rail corridors that could be used for urban transit purposes were included in the mandate.

In addition, municipalities and urban transit authorities now could apply to the Agency to determine the net salvage value of abandoned or discontinued railway lines and related assets prior to accepting a railway company's offer to acquire them.

The legislation, effective June 22, 2007, also created a statutory basis for the use of mediation to resolve complaints. Tested as a pilot project, mediation had proved a cost-effective, efficient alternative to the Agency's formal court-like adjudication process for disputes over air, rail, marine and accessibility.

One unexpected element of the legislation involved the government's fleet of more than 12,000 hopper cars which had been provided to CN and CP since the 1970s to ensure capacity to move prairie grain to Vancouver and other ports.

The government reversed a previous agreement in principle, a decade in the making, to sell the fleet to the Farmer Rail Car Coalition. The Coalition of 17 farm organizations had asserted, among other things, that it could maintain the cars for a much lower cost than the railway companies were charging.

While the government decided to keep the fleet, the legislation required a one-time reduction in hopper car maintenance costs factored into the Agency's annual calculations of how much revenue CN and CP are allowed to earn moving grain to market.

In 2007–2008, the Agency determined that the actual maintenance costs for hopper cars were $33 million, not the $105 million that were then reflected within the Maximum Revenue Entitlement Program, colloquially known as the "revenue cap."

Parliament also turned to efforts aimed at quelling tensions between shippers and the railway companies. While the National Transportation Policy enshrined in the *Canada Transportation Act* emphasized the role of the market and commercial relationships, shippers argued that bargaining power had tilted too far to the side of the two national railway companies due to limited competition.

AERIAL VIEW OF VANCOUVER, BRITISH COLUMBIA. MOST CANADIAN CITIES EVOLVED AROUND RAILWAY TRACKS AND DEPEND ON THE GOODS AND SERVICES THEY DELIVER. (PHOTO: SERJIO74 / ISTOCK)

Improvements for shippers came in the form of legislation, as well as the establishment of a two-year Rail Freight Service Review Panel for further potential changes. The panel was to study the entire rail-based logistics chain, including railway companies, shippers, terminal operators, ports and vessel operators.

Legislation effective in February 2008 aimed to improve leverage for shippers in commercial negotiations with railway companies over service and rates. Minister Cannon said the measures would "protect rail shippers from the potential abuse of market power by railways."

The Agency no longer had to be satisfied that a shipper would suffer "substantial commercial harm" before considering a complaint. Shippers had long objected to this test and MPs agreed it was an unwarranted barrier to statutory remedies.

In addition, the Agency now had the power to review and amend unreasonable railway company charges and associated terms and conditions for the movement of traffic or fees for incidental services, based on a complaint by one or more shipper.

The notice that a railway company must give for increasing freight rates was lengthened to 30 from 20 days, to provide more time for shippers to adjust their plans.

The Agency's option of final offer arbitration to resolve disputes was extended from a single shipper to groups of shippers seeking a joint common solution to freight rates and conditions. In this option, an independent arbitrator from an Agency roster selects the final offer of either the shipper or the carrier to settle a contract.

The Minister emphasized the importance of the measures to the hundreds of companies that ship their goods by rail, and for the competitiveness of the Canadian economy at a time of unprecedented levels of trade with the Asia-Pacific region.

"The Bill will provide the regulatory stability that the railway companies have been seeking, which will, in turn, ensure that much-needed capacity investments are made on the key trade corridors," he said. "Improved capacity will help our railway industry and shippers to remain competitive with their counterparts in the United States."

On the accessibility front, a turning point was reached on March 23, 2007, a day that saw a Supreme Court ruling in the case of the Council of Canadians with Disabilities versus VIA Rail.

The decision followed a seven-year campaign by the Council to get VIA Rail to make some of its Renaissance train cars accessible to travellers in wheelchairs and to passengers with visual impairments and who used service animals.

In its decision, the Supreme Court ruled that Part V of the *Canada Transportation Act* is human rights legislation and that the Agency must apply principles of the *Canadian Human Rights Act*, notably the principle of reasonable accommodation, when it identifies and remedies obstacles to access.

The Court also acknowledged that the Agency uniquely has the specialized expertise to balance the needs of people with disabilities with the practical financial and logistical realities of the federal transportation system.

Ultimately, the ruling restored the Agency's 2003 decision on VIA Rail. From this point forward, VIA was required to ensure that every daytime Renaissance train had an accessible coach and every overnight train had an accessible cabin.

"Fortunately for disability rights advocates, the majority properly stressed the primacy of human rights and gave it a robust interpretation," Ravi Malhotra wrote in volume 58 of the Supreme Court Law Review. "Advocates can effectively use the majority judgment in Via Rail in future challenges in the coming years."

Another key accessibility decision came in 2008, when the Agency issued its "one-person-one-fare" decision, ordering an additional free airline seat for passengers with disabilities who must travel with attendants. This

TRAVELLERS WITH MOBILITY IMPAIRMENTS
AT THE VIA RAIL STATION IN OTTAWA, ONTARIO.
(PHOTO: CANDIAN TRANSPORTATION AGENCY)

decision underlined the principle of equal access to transportation services for people with disabilities, regardless of the nature of the disability.

This case, too, originated with the Council of Canadians with Disabilities, along with two individuals who needed personal care attendants when travelling. They were Joanne Neubauer of Victoria, B.C. who had severe rheumatoid arthritis, and the estate of Eric Norman, a resident of Gander, Newfoundland and Labrador, who had a rare disease resulting in paraplegia. Linda McKay-Panos was granted intervener status after a decision of the Federal Court of Appeal determined that she was a person with a disability because of obesity.

The Agency decided that Air Canada, Air Canada Jazz and WestJet could not charge more than one fare for persons with disabilities who are accompanied by an attendant for their personal care or safety in-flight, or who require additional seating for themselves if they are functionally disabled by obesity. The Federal Court of Appeal dismissed the airlines' application for leave to appeal.

"As Canada's population ages and the incidence of disability increases, thedemand for accessible transportation will be even greater," Hare said in the Agency's accessibility newsletter in the spring of 2008.

THE COURT ALSO ACKNOWLEDGED THAT THE AGENCY UNIQUELY HAS THE SPECIALIZED EXPERTISE TO BALANCE THE NEEDS OF PEOPLE WITH DISABILITIES WITH THE PRACTICAL FINANCIAL AND LOGISTICAL REALITIES OF THE FEDERAL TRANSPORTATION SYSTEM.

Also in 2008, the Agency addressed 25 applications against Air Canada and one against WestJet from people who required medical oxygen during flights. The decision specified that passenger-supplied oxygen, in whatever form permitted by safety and security regulations, is the most appropriate accommodation. It accepted Air Canada's gaseous oxygen service as a reasonable alternative to passenger-supplied gaseous oxygen for domestic flights, so long as it is provided free of charge from pre-boarding to arrival.

A different accessibility issue, accommodation for persons with serious allergies, took centre stage in the early 2010s. In 2002, the Agency had determined that an allergy may be considered a disability if it sufficiently limits a person's access to federally-regulated transportation. In 2011, the Agency ordered Air Canada to create a buffer zone on flights for people with peanut and nuts allergies. In 2012, the Agency required buffer zones from Air Canada, Air Canada Jazz and WestJet for people allergic to cats. Dogs were included in a later decision.

The Agency also continued its efforts to remove undue obstacles to transportation services on a systemic basis by developing standards and codes of practice to increase accessibility. Codes of practice, standards, and resource tools were issued on terminal accessibility from the parking lot to the boarding area, the training of personnel to assist people with disabilities, automated self-service ticketing kiosks, and how to provide service to persons with disabilities who travel with mobility aids, an attendant, or a service animal.

During this same time period, the Agency was equally busy on air passenger rights issues. It strengthened air passenger rights through an initiative to help air carriers simplify complex tariff information for consumers as well as precedent-setting decisions on complaints.

Air passenger rights and the provision of timely and quality service by air carriers had been steadily gaining attention in Canada and other parts of the world, with several countries adopting measures to protect travellers.

In Canada, each airline remained free, by law, to establish its own tariff, listing terms and conditions of carriage, such as fares and fees, and remedies for passengers who are denied boarding or delayed because of overbooking or cancelled flights. Airlines were required to display the tariff clearly at their offices and on their websites.

Since airline tariffs are complex documents that span dozens, if not hundreds of pages, the Agency developed a Sample Tariff in 2011. This document aimed at helping airlines use clear, understandable language in their contracts of carriage with passengers. To further help consumers, the Agency also started posting links to individual airline tariffs on its website.

At the same time, the Agency resolved a number of important air passenger complaints. In 2011, the Agency ruled that Air Canada's compensation of $100 cash or a $200 voucher was unreasonable compensation for denied boarding and ordered a sliding scale of compensation — from $200 to $800 — based on the length of delay.

In a 2013 complaint against Air Transat, the Agency ruled that flight advancements could negatively impact passengers in the same way as flight delays, and that the same compensation should be provided in both cases.

In five separate decisions in 2012–2013, Air Canada, WestJet and Air Transat were ordered to let passengers choose whether they prefer to receive a refund or be rebooked when a flight is delayed, overbooked or cancelled. The Agency ordered that carriers' international and domestic tariff provisions should be harmonized.

Across all of these decisions, the Agency's mandate only allowed it to resolve complaints on a case by case basis. The Agency noted the limitations of this approach in each of its annual reports to Parliament, starting in 2008–2009, stating that it would have more leverage if it could address non-compliance with tariffs on a systemic basis, rather than case by case.

ACROSS ALL OF THESE DECISIONS, THE AGENCY'S MANDATE ONLY ALLOWED IT TO RESOLVE COMPLAINTS ON A CASE BY CASE BASIS. THE AGENCY NOTED THE LIMITATIONS OF THIS APPROACH IN EACH OF ITS ANNUAL REPORTS TO PARLIAMENT, STARTING IN 2008–2009, STATING THAT IT WOULD HAVE MORE LEVERAGE IF IT COULD ADDRESS NON-COMPLIANCE WITH TARIFFS ON A SYSTEMIC BASIS, RATHER THAN CASE BY CASE.

Another topic that raised the ire of consumers was air travel advertising that did not clearly display full round-trip fares that included all airport fees, fuel surcharges and taxes. As a result, in late 2011, the Agency was asked by the Minister of Transport to draft regulations.

The Agency hosted an innovative online consultation in which members of the public made suggestions through a "crowdsourcing" forum that collected and ranked the popularity of ideas of what should be included in the advertisements.

The "all-inclusive" advertising regulations, which came into effect in December 2012, helped consumers and promoted fair competition by requiring that all carriers follow the same rules — an important step in levelling the playing field in a fiercely competitive sector.

David Goldstein, then President and CEO of the Tourism Industry Association of Canada, praised the Agency's consultation process as "a model for future co-operation between industry, consumer organizations and regulatory bodies."

In the midst of the continuing work on air and accessibility matters, the Rail Freight Service Review Panel returned in 2011 to recommend further measures to protect shippers, notably the establishment of a shipper's right to a service level agreement with the railway company and recourse at the Agency if the parties are unable to conclude terms.

"In principle, the Panel believes commercial solutions will address issues and problems better than increased regulation," the Panel said in its final report. "However, the Panel also recognizes that effective legislation and regulation may be necessary to foster an environment that encourages commercial solutions to service problems and disputes."

Legislators responded with the *Rail Freight Service Act*, effective June 26, 2013. The law required a railway company, on a shipper's request, to offer a contract setting out level of service commitments on railcar delivery and other operations. It set up an arbitration process at the Agency for when parties could not conclude an agreement.

However, public attention shifted quickly to other rail matters upon a deadly derailment in Lac-Mégantic, Quebec.

In the early hours of July 6, 2013, a Montreal, Maine & Atlantic Railway (MMA) train carrying 7.7 million litres of petroleum crude oil bound for Saint John, New Brunswick, derailed near the centre of the town of Lac-Mégantic.

Almost all the 63 derailed tank cars were damaged, and many had large breaches, the Transportation Safety Board reported. About six million litres of petroleum crude oil was quickly released. Fire began almost immediately, and the ensuing blaze and explosions left 47 people dead. Another 2,000 people were forced from their homes, and much of the downtown core was destroyed.

The Agency suspended the certificate of fitness for MMA and its wholly-owned subsidiary Montreal, Maine & Atlantic Canada Co. The companies declared bankruptcy and in June 2014, their rail assets were sold to Central Maine & Quebec Railway (CMQ). Subsequently, the Agency launched a consultation on potential improvements to rail insurance requirements.

At the same time, another storm was brewing on the rail front. A record crop in western Canada, combined with exceptionally cold weather, put a huge strain on Canada's shipping system for grain in the winter of 2013–2014. A significant backlog in grain delivery by railways companies to export ports caused an uproar among grain shippers and producers.

GOVERNMENT-OWNED HOPPER CARS TRANSPORTING GRAIN THROUGH THE PRAIRIES. (PHOTO: INDYKB / SHUTTERSTOCK)

Parliament responded with the *Fair Rail for Grain Farmers Act*, which made a number of temporary and permanent amendments to the *Canada Transportation Act* and the *Canada Grain Act* with the goal of ensuring the timely transportation of grain.

Pursuant to these amendments, the Agency temporarily expanded the radius for interswitching for all commodities from 30 kilometres to 160 kilometres in Saskatchewan, Alberta and Manitoba. Interswitching is a mechanism that allows a shipper to have the railway that directly serves its facility move its cargo, at a rate set by the Agency, to an interchange point for transfer to another railway for delivery to destination.

Also pursuant to the *Fair Rail for Grain Farmers Act*, the Agency developed regulations specifying what constitutes "operational terms" for rail level of service arbitrations. Defining operational terms clarified the matters eligible for arbitration by the Agency and supported the efficient processing of arbitration cases within the 45 to 65 calendar day statutory deadline.

Finally, the legislation required the Agency to provide annual advice to the Minister of Transport, prior to each crop year, on the minimum amount of grain that CN and CP should move during each month of the crop year. Administrative penalties could be imposed for failure to meet these minimum volume requirements. These minimum volumes were criticized by some of Canada's major business organizations as unwarranted interference in the marketplace. In March 2015, the Minister of Transport announced that the minimum volume requirements would not be renewed after being in place for nearly one year.

In addressing shipper complaints about railway level of service issues in the fall of 2014, the Agency issued a precedent-setting decision that set out a three-step approach to evaluate whether a railway company has failed to fulfill its obligations. The three evaluation questions were: whether the shipper's request for service is reasonable; whether the railway company fulfilled the request; and if not, whether there were reasons to justify the service failure. CN challenged the ruling but the Federal Court of Appeal upheld the Agency's decision in September 2016.

In the wake of the Lac-Mégantic tragedy, crude-by-rail and related issues were frequently discussed on Parliament Hill. A new liability insurance and compensation regime for federally-regulated railway companies was set out in the *Safe and Accountable Rail Act*, effective June 18, 2016.

To qualify for a certificate of fitness from the Agency, the new regime required federal freight railway companies to carry minimum levels of insurance, ranging from $25 million to $1 billion, based on the type and volume of dangerous goods they transport.

Railway companies would have to maintain their liability insurance coverage and inform the Agency immediately of any operational changes that may affect their coverage. The Agency could apply an administrative monetary penalty of up to $100,000 per violation.

"This new legislation will improve railway safety and strengthen oversight while protecting taxpayers and making industry more accountable to communities," said Transport Minister Lisa Raitt.

There were more changes on the horizon — not just for rail transportation. The Canadian transportation sector was under close scrutiny and pressure was mounting to ensure that legislation kept pace with changing economic conditions, technologies, and stakeholder and public expectations.

ON THE MOVE

THE CANADIAN TRANSPORTATION AGENCY, 2014 TO 2017

+ Feb. 25, 2016, *Canada Transportation Act* review tabled in the House of Commons.

+ May 26, 2016, Regulatory Modernization Initiative launched.

+ May 16, 2017, *Transportation Modernization Act* tabled.

On June 25, 2014, Transport Minister Lisa Raitt launched a comprehensive, arms-length review of the *Canada Transportation Act* a year earlier than required by law. It became the first of several comprehensive initiatives to review and update Canada's national transportation policies and regulations.

The Honourable David L. Emerson, a former cabinet minister who had held the portfolios of Industry, International Trade, and Foreign Affairs, was appointed June 25, 2014, to head the Review with five advisors.

The panel looked forward 20 to 30 years to identify priorities and potential actions in transportation that would support Canada's long-term economic well-being.

The 2013–2014 grain backlog had raised questions about the capacity and adaptability not only of the rail sector, but other links in the supply chain as well.

"For large regions of the country, prosperity is at risk if the transportation system fails to deliver," the panel said. "For Canada, a reputation as a reliable source of products and trade partner is at stake."

The panel's report was submitted to former astronaut Marc Garneau on December 18, 2015, a few weeks after he was appointed as Transport Minister. Garneau tabled the report in Parliament on February 25, 2016.

The report recognized the importance of ensuring that the Agency and other entities governing Canada's transportation system "are structured to enable rigorous oversight, and balanced, timely decisions." Included in the report's numerous recommendations were a number of recommendations with a "significant direct impact on the Agency of the future."

The report recommended giving the Agency own motion powers and the ability to issue general orders. This would permit the Agency to address issues systematically, rather than on a case by case basis.

It also proposed the creation of a new data platform and providing the Agency with the legislative authority to obtain information relevant to its new mandate. This would permit greater visibility, accountability, and transparency across the transportation network and enable quicker, more effective response to problems affecting it.

It suggested that the Agency be given a mandate to enforce and monitor new accessibility regulations to replace the existing codes of practice. This would provide for greater harmonization with other jurisdictions and shift the focus from adjudicating complaints to enforcing and monitoring new regulations.

Finally, it recommended legislative amendments or new regulations to establish passenger rights and obligations enforceable by the Agency. This would provide an expanded air mandate for the Agency and enhance consumer protection for airline passengers.

During the period the panel was conducting its consultations and research, the Agency transitioned to new leadership. On July 20, 2015, Scott Streiner took over as Chair and CEO, a position Vice-Chair Sam Barone had been filling on an interim basis for several months. Streiner came to the Agency after a 25-year career in the federal public service, during which he had

FINALLY, IT RECOMMENDED LEGISLATIVE AMENDMENTS OR NEW REGULATIONS TO ESTABLISH PASSENGER RIGHTS AND OBLIGATIONS ENFORCEABLE BY THE AGENCY. THIS WOULD PROVIDE AN EXPANDED AIR MANDATE FOR THE AGENCY AND ENHANCE CONSUMER PROTECTION FOR AIRLINE PASSENGERS.

AN AIRCRAFT READY FOR BOARDING IN WHITEHORSE, YUKON.
(PHOTO: PI-LENS / ISTOCK)

served in a variety of roles, including Assistant Secretary to Cabinet for Economic and Regional Development Policy, Assistant Deputy Minister at Transport Canada and at the Labour Program, and Executive Director of the Aerospace Review.

A few weeks after Streiner's arrival, SkyGreece Airlines announced that it was temporarily suspending operations. The Canadian-owned company stranded about 1,000 passengers on August 27, 2015. The Agency was concerned that SkyGreece was failing to meet its legal obligations to passengers.

Seeking to provide stranded travellers with some certainty, the Agency issued, on its own motion, a "show cause" order to SkyGreece indicating that unless the airline could offer some counter-argument, it would be ordered within 24 hours to inform all passengers of their options (including getting a refund or transporting them using another airline), implement

the option chosen by the passengers, establish a help line and update its website to fully explain the measures in place to address the situation.

SkyGreece declared bankruptcy soon thereafter. The Agency immediately began to help affected SkyGreece ticket holders by providing timely advice about their options, rights and recourse. The Agency had clearly demonstrated that it was willing to use the full extent of its powers to ensure that air carriers facing financial challenges do not leave passengers stranded and uncertain about their options.

Another development in late 2015 was the announcement that a company called NewLeaf would be entering the Canadian air travel market. NewLeaf intended to sell no-frills discount air travel services by purchasing seats from a licenced air carrier and reselling them to the public.

In March 2016, the Agency determined that resellers would not be required to hold an air licence, so long as it is clear to the public that they are only acting as a reseller. The Agency determined that NewLeaf Travel Company Inc. was a reseller under its proposed approach.

"The determination brings clarity and predictability to a rapidly evolving airline industry, allows for innovation and consumer choice and maintains protection for travellers," Streiner said.

Streiner recognized more generally that the Agency needed to keep pace with changes in business models, user expectations and best practices in the regulatory field. In May 2016, the Agency announced its Regulatory Modernization Initiative — a full review of all the regulations and related guidelines it administers. The Agency planned to conduct consultations, draft updated regulations, ensure all necessary approvals, and bring the regulations into force by 2018.

Streiner also initiated a new approach to outreach and engagement, underscoring the importance of making transportation providers, travellers, shippers, and other stakeholders aware of their transportation-related rights and responsibilities, and how the Agency could help. The Agency's revamped public information efforts included an increased number of stakeholder meetings and events, targeted advertising, and increased use of social media.

These efforts contributed to a significant increase in the number of air travel complaints filed in 2016–2017. The 3,367 new complaints that year was nearly equal to the number of complaints received in the previous five years combined and represented a jump of over 300% from 2015–2016.

Another way the Agency moved to keep pace with a changing industry was through improving its dispute resolution services. On the one hand, the Agency implemented an expedited process for adjudicating relatively straightforward disputes; on the other, it returned, after a nine-year hiatus, to holding oral hearings for select, complex cases where significant volumes of competing arguments and evidence needed to be compared and weighed.

Continuing a period of rapid change, on May 16, 2017, the government tabled Bill C-49, the *Transportation Modernization Act*. The proposed legislation drew on some of the recommendations from the review of the *Canada Transportation Act* and the Minister of Transport's subsequent consultations with stakeholders, experts, and interested Canadians.

The Bill included provisions empowering the Agency to make new air passenger rights regulations, changing foreign ownership rules for Canadian air carriers, replacing the extended interswitching temporarily allowed under the *Fair Rail for Grain Farmers Act* with a new long-haul interswitching option for shippers "captive" to a single railway, adjusting the Maximum Revenue Entitlement formula to give individual railways credit for capital investments, and allowing for the inclusion of reciprocal non-performance penalties in service level agreements established by the Agency through arbitration.

As Canada approached the 150th anniversary of Confederation, the Agency was in the midst of a period of renewal marked by action on a wide range of fronts to ensure effective delivery of all its responsibilities. Building on long-standing foundations of independence, expertise, and impartiality — and placing increased emphasis, in a fast-moving world, on engagement, agility, and innovation — the Agency stood ready to do its part in helping to create a competitive, efficient, and accessible national transportation system for many years to come.

CONTINUING A PERIOD OF RAPID CHANGE, ON MAY 16, 2017, THE GOVERNMENT TABLED BILL C-49, THE *TRANSPORTATION MODERNIZATION ACT*. THE PROPOSED LEGISLATION DREW ON SOME OF THE RECOMMENDATIONS FROM THE REVIEW OF THE *CANADA TRANSPORTATION ACT* AND THE MINISTER OF TRANSPORT'S SUBSEQUENT CONSULTATIONS WITH STAKEHOLDERS, EXPERTS, AND INTERESTED CANADIANS.

APPENDIX: MEMBERS' LIST

BOARD OF RAILWAY COMMISSIONERS AND TRANSPORT COMMISSIONERS

MEMBER	OFFICE	APPOINTED	TERMINATION DATE
Andrew George Blair	Chief Commissioner	February 1, 1904	October 31, 1904
Michel Esdras Bernier	Deputy Commissioner	February 1, 1904	January 31, 1914
James Mills	Commissioner	February 1, 1904	January 14, 1914
Albert Clements Killam	Chief Commissioner	February 6, 1905	March 1, 1908
James Pitt Mabee	Chief Commissioner	March 28, 1908	May 6, 1912
D'Arcy Scott	Assistant Chief Commissioner	September 17, 1908	September 16, 1918
Simon James McLean	Commissioner Assistant Chief Commissioner	September 17, 1908 August 6, 1919	August 5, 1919 September 16, 1938
Thomas Greenway	Commissioner	September 17, 1908	October 30, 1908
A.S. Goodeve	Commissioner	April 4, 1912	November 22, 1920
Henry Lumley Drayton	Chief Commissioner	July 1, 1912	August 1, 1919
Wilfred Bruno Nantel	Assistant Chief Commissioner	October 20, 1914	October 19, 1924
A.C. Boyce	Commissioner	October 4, 1917	October 3, 1927
Dr. John Gunion Rutherford	Commissioner	September 17, 1918	July 24, 1923

BOARD OF RAILWAY COMMISSIONERS AND TRANSPORT COMMISSIONERS

MEMBER	OFFICE	APPOINTED	TERMINATION DATE
Frank Broadstreet Carvell	Chief Commissioner	August 2, 1919	August 9, 1924
Calvin Lawrence	Commissioner	November 4, 1921	May 4, 1931
Frank Oliver	Commissioner	September 21, 1923	September 20, 1928
Harrison Andrew McKeown	Chief Commissioner	September 16, 1924	February 28, 1931
Thomas Vien	Deputy Chief Commissioner	September 5, 1925	January 31, 1931
Tobias Crawford Norris	Commissioner	March 30, 1928	March 29, 1938
John August Stoneman	Commissioner	March 12, 1929	March 12, 1949
Charles Perry Fullerton	Chief Commissioner	August 13, 1931	December 31, 1933
François Albert Labelle	Deputy Chief Commissioner	December 16, 1931	July 15, 1933
George A. Stone	Commissioner	December 16, 1931	June 30, 1948
François Napoléon Garceau	Deputy Chief Commissioner	September 16, 1933	April 10, 1943
Hugh Guthrie	Chief Commissioner	August 12, 1935	November 3, 1939
William Hugh Masson Wardhope	Assistant Chief Commissioner	November 8, 1938	November 7, 1958
Frank Mitchell MacPherson	Commissioner	September 21, 1939	March 29, 1959
James Albert Cross	Chief Commissioner	April 1, 1940	June 30, 1948
Armand Sylvestre	Deputy Chief Commissioner	April 18, 1945	April 17, 1960
Maynard Brown Archibald	Chief Commissioner	July 1, 1948	October 31, 1951

BOARD OF RAILWAY COMMISSIONERS AND TRANSPORT COMMISSIONERS

MEMBER	OFFICE	APPOINTED	TERMINATION DATE
Howard Brown Chase	Commissioner	July 28, 1948	May 19, 1959
William John Patterson	Commissioner	April 28, 1949	July 3, 1951
John D. Kearney	Chief Commissioner	November 1, 1951	January 15, 1957
Overton A. Matthews	Commissioner	January 1, 1953	September 1, 1955
Leonard James Knowles	Commissioner	September 1, 1955	January 2, 1962
Clarence Day Shepard	Chief Commissioner	January 15, 1957	January 1, 1959
Roderick Kerr	Commissioner Assistant Chief Commissioner Chief Commissioner	October 6, 1958 November 8, 1958 January 1, 1959	November 8, 1958 December 31, 1958 *1967*
Herbert Henry Griffin	Assistant Chief Commissioner	January 19, 1959	September 20, 1967
John Miller Woodard	Commissioner	May 20, 1959	September 20, 1967
William Roy Irwin	Commissioner	August 1, 1959	September 20, 1967
Joseph Émile Dumontier	Deputy Chief Commissioner	May 26, 1960	September 20, 1967
Alfred Sydney Kirk	Commissioner	January 3, 1962	September 20, 1967

AIR TRANSPORT BOARD

NAME	POSITION	START DATE	TERMINATION DATE
Robert Alexander Cecil Henry	Chairman	September 11, 1944	1948
Alan Ferrier	Member	September 11, 1944	December 1949
J. P. Roméo Vachon	Member	September 11, 1944	1954
John Russel Baldwin	Chairman	1949	July 1954
Alexander Daniel McLean	Member	January 1950	1962
Wilbert Jamieson Matthews	Chairman	July 1954	1958
Joseph Louis Gérard Morriset	Member Chairman	January 1955 August 4, 1965	August 4, 1965 September 20, 1967
Paul Yettvart Davoud	Chairman	March 1, 1959	1963
George Russell Boucher	Member	1962	September 20, 1967
Frederick Thomas Wood	Chairman	October 10, 1963	1965
John Rashleigh Belcher	Member and Vice-Chairman	1965	September 20, 1967
James Flood Clark	Member	1966	1967

CANADIAN MARITIME COMMISSION

NAME	POSITION	START DATE	TERMINATION DATE
John Valentine Clyne	Chairman	November 1, 1947	July 7, 1950
Louis de la Chesnaye Audette	Member Chairman	November 1, 1947 January 1, 1954	December 31, 1953 July 31, 1959
Henry J. Rahlves	Member	November 1, 1947	1948
Angus McGugan	Member	1948	July 7, 1956
Jean-Claude Lessard	Chairman	December 13, 1950	December 31, 1953
Carl William West	Member	January 1, 1954	1959
Alexander Watson	Chairman	August 1, 1959	February 20, 1965
George Alexander Scott	Member	February 1960	1964
Jack Clemenger Rutledge	Member	1960	September 20, 1967
Howard Jackson Darling	Member Chairman	February 21, 1965 1966	1966 September 20, 1967

CANADIAN TRANSPORT COMMISSION

NAME	POSITION	START DATE	TERMINATION DATE
John Whitney Pickersgill	President	September 20, 1967	August 31, 1972
Pierre Taschereau	Vice-President	September 20, 1967	July 31, 1971
John Rashleigh Belcher	Member	September 20, 1967	July 31, 1972
George Russell Boucher	Member	September 20, 1967	November 8, 1970
Alan Pengelly Campbell	Member	September 20, 1967	December 30, 1976
James Flood Clark	Member	September 20, 1967	August 31, 1976
Raymond Robin Cope	Member Vice-President Research	September 20, 1967 February 15, 1968	September 24, 1975
Howard Jackson Darling	Member	September 20, 1967	February 20, 1970
Joseph Émile Dumontier	Member	September 20, 1967	September 1, 1970
Laval Fortier	Member	September 20, 1967	April 18, 1974
Herbert Henry Griffin	Member	September 20, 1967	December 31, 1975
William Roy Irwin	Member	September 20, 1967	January 14, 1970
David Haney Jones	Member	September 20, 1967	January 1, 1988
Roderick Kerr	Member	September 20, 1967	October 31, 1967
Alfred Sydney Kirk	Member	September 20, 1967	September 16, 1970
John Arthur Delamare Magee	Member	September 20, 1967	January 10, 1985
Joseph Louis Gérald Morisset	Member	September 20, 1967	February 15, 1973
John Miller Woodard	Member	September 20, 1967	December 15, 1978

CANADIAN TRANSPORT COMMISSION

NAME	POSITION	START DATE	TERMINATION DATE
Guy Frank Lafferty	Member	March 13, 1969	1979
Raymond MacDonald March	Member	March 19, 1970	December 24, 1981
John Barrie Glen Thomson	Member	June 28, 1971	June 16, 1981
Guy Roberge	Vice-President (Law)	August 1, 1971	December 24, 1981
Louis René Talbot	Member	September 9, 1971	1979
Ann Harley Sedgewick Carver	Member	January 28, 1972	1979
E. J. Benson	President	September 1, 1972	August 31, 1982
Edward Henry LaBorde	Member	August 21, 1973	January 6, 1981
John Teaton Gray	Member Vice-President (Law)	June 1, 1974 December 24, 1981	December 24, 1981 May 31, 1984
Ralph Azzie	Member	May 27, 1976	December 24, 1983
Yves Dubé	Vice-President (Research)	June 1, 1976	September 1, 1986
Malcolm Douglas Armstrong	Member	September 1, 1976	August 4, 1986
James Maurice McDonough	Member	August 4, 1977	January 1, 1988
J. A. L. Gérald Drainville	Member	1979	March 31, 1988
Paul Langlois	Member	1979	March 31, 1988
John Francis Walter	Member	1979	March 31, 1988
Bernard R. Wolfe	Member	1979	March 31, 1988
Robert John Orange	Member	May 2, 1981	March 31, 1988
Jean-Louis Bourret	Member	December 23, 1981	March 31, 1988

CANADIAN TRANSPORT COMMISSION

NAME	POSITION	START DATE	TERMINATION DATE
Anne-Marie Trahan	Member	December 23, 1981	June 2, 1986
David Hilton Chapman	Member	March 3, 1983	March 31, 1988
Jean Marchand	President	December 16, 1983	July 31, 1985
John Carr Munro	Member	June 29, 1984	March 31, 1988
John David Thompson	Vice-President (Law) Acting President	June 29, 1984 July 31, 1985	1987
Michael James Landers	Member	July 9, 1984	March 31, 1988
Marcel Lambert	Member	March 11, 1985	January 1, 1988
Erik Hersholt Nielsen	President	January 21, 1987	January 1, 1988

NATIONAL TRANSPORTATION AGENCY

NAME	POSITION	START DATE	TERMINATION DATE
Erik Hersholt Nielsen	Chairman	January 1, 1988	November 30, 1992
Micheline Beaudry	Vice-Chairman Acting Chairman Vice-Chairman	August 15, 1988 December 1, 1992 March 16, 1993	November 30, 1992 March 15, 1993 June 30, 1996
Craig S. Dickson	Member	January 1, 1988	1996
Marcel Lambert	Member	January 1, 1988	March 31, 1990
James Maurice McDonough	Member	January 1, 1988	December 31, 1988
James Daryl Mutch	Member	January 1, 1988	November 30, 1992
Edmund J. O'Brien	Member	January 1, 1988	1996
B. Keith Penner	Member	January 1, 1988	June 30, 1996
Edward Ehrlich Weinberg	Member	January 1, 1988	November 30, 1992

NATIONAL TRANSPORTATION AGENCY

NAME	POSITION	START DATE	TERMINATION DATE
Nicolle Forget	Member	August 15, 1988	1993
Kenneth Raphael Ritter	Member	April 1989	June 30, 1996
George C. Minaker	Member	1990	June 30, 1996
Jacques Voyer	Member	May 20, 1992	1993
Patricia Danforth	Member	June 22, 1992	1993
James A. McGrath	Member	March 1,1993	1995
Gilles Rivard	Chairman	May 3, 1993	June 30, 1996
Richard Cashin	Member	1993	June 30, 1996
Marian Lorraine Robson	Member	March 27, 1995	June 30, 1996

CANADIAN TRANSPORTATION AGENCY

NAME	POSITION	START DATE	TERMINATION DATE
Marian Lorraine Robson	Chairman	July 1, 1996	July 1, 2006
Jean Dorius Patenaude	Vice-Chairman	July 1, 1996	June 2000
Richard Cashin	Member	July 1, 1996	June 30, 2003
B. Keith Penner	Member	July 1, 1996	June 30, 2003
Michael A. Sutton	Member	December 22, 1997	March 31, 2004
Mary-Jane Bennett	Member	January 19, 1998	May 16, 2007
Gilles Dufault	Member Vice-Chairman	January 19, 1998 August 2000	January 18, 2008
Bruce Melvin Hood	Air Travel Complaints Commissioner	August 1, 2000	July 31, 2002
George Albert Proud	Member	January 8, 2001	January 7, 2007
Guy Delisle	Member	January 8, 2002	January 7, 2007

CANADIAN TRANSPORTATION AGENCY

NAME	POSITION	START DATE	TERMINATION DATE
Liette Lacroix Kenniff	Air Travel Complaints Commissioner	October 1, 2002	September 30, 2004
Reginald Beaton Tulk	Member	December 16, 2002	December 15, 2007
Baljinder S. Gill	Member	April 26, 2004	April 25, 2007
Ray Kaduck	Member	January 8, 2007	May 8, 2016
Geoffrey Hare	Chair	February 12, 2007	February 11, 2015
John Scott	Member Vice-Chair	June 1, 2007 January 19, 2008	May 31, 2012
Mark MacKeigan	Member	June 18, 2007	June 22, 2014
Jean-Denis Pelletier	Member	November 3, 2008	November 2, 2013
Sam Barone	Vice-Chair	March 18, 2013	
Tom Maville	Member	January 22, 2014	January 9, 2016
Peter Paul Fitzgerald	Member	June 18, 2014	
Stephen D. Campbell	Member	July 7, 2014	
William McMurray	Member	July 28, 2014	
Scott Streiner	Chair	July 20, 2015	

BIBLIOGRAPHY

CANADIAN GOVERNMENT PUBLICATIONS

Annual Reports and Reviews

Air Transport Board, Annual Report for the period September 11, 1944 to December 31, 1946. Ottawa 1947

Board of Railway Commissioners, Annual Reports, 1906 to 1937

Board of Transport Commissioners, Annual Reports, 1938 to 1966

Canadian Transportation Agency, Annual Reports, 1996 to 2002

Canadian Maritime Commission, Annual Reports, 1947 to 1966

Canadian Transport Commission, Annual Reports, 1967 to 1987

Canadian Transport Commission, Economic and Social Analysis Branch, June 1975

National Transportation Agency, Annual Reports, 1988 to 1992

National Transportation Agency, Annual Reviews, 1988 to 1994

Other Government and Related Documents

Canada, Parliament. House of Commons. *House of Commons Debates*, 1904- .

Darling, Howard J., *A Historical Overview of Direct Transit Subsidies in Canada*, Canadian Transport Commission, Economic and Social Analysis Branch, June 1975.

Economic Council of Canada, *Reforming Regulation*, Chairman David Slater, 1981.

Economic Council of Canada, *Responsible Regulation: An Interim Report*, Chairman Sylvia Ostry, 1979.

Freedom To Move: A Framework for Transportation Reform, Transport Canada, 1985.

Freedom to Move in Canada's New Transportation Environment, 10-part series of pamphlets, Transport Canada, 1988.

Gratwick, John, *The Evolution of Canadian Transportation Policy*, A paper prepared for the *Canada Transportation Act* Review Panel, March 2001.

Janisch, H.N., *The Regulatory Process of the Canadian Transport Commission*, Administrative Law Series, a study prepared for the Law Reform Commission of Canada, 1978.

Leacy, F. H., ed., *Historical Statistics of Canada*, Statistics Canada, 1983.

Lessard, J.-C., *Transportation in Canada*, A study prepared for the Royal Commission on Canada's Economic Prospects, 1956.

Ross, Thomas R. and Stanbury, W.T., *Policy Proposals for Enhancing Competition in Canada's Airline Markets*, A study prepared for the *Canada Transportation Act* Review Panel, April 5, 2001.

Vision and Balance, Report of the *Canada Transportation Act* Review Panel, March 2001.

PUBLIC RECORDS

Records of Canadian Transport Commission (RG 46)

Railway Committee of the Privy Council, Correspondence

Railway Committee of the Privy Council, Minutes

NEWSPAPERS AND PERIODICALS

Calgary Herald; *Edmonton Journal*; *Globe and Mail*; *La Presse*; *Montreal Gazette*; *Ottawa Citizen*; *Ottawa Journal*; *Regina Leader-Post*; *Saint John Telegraph*; *Vancouver Province*; *Winnipeg Free Press* (also called *Manitoba Free Press*)

BOOKS AND ARTICLES

Bercuson, David Jay, ed., *Canada and the Burden of Unity*, Macmillan of Canada, Toronto, 1977.

Bothwell, Robert, Pearson, *His Life and World,* McGraw-Hill Ryerson, Toronto, 1978.

Bothwell, Robert and Kilbourn, William, *C.D. Howe: A biography*, McClelland and Stewart, Toronto, 1979.

Clarkson, Stephen and McCall, Christina, *Trudeau and Our Times, Volume 1: The Magnificent Obsession*, McClelland and Stewart, Toronto, 1990; *Volume 2: The Heroic Delusion*, McClelland & Stewart, Toronto, 1994.

Creighton, Donald G., *Canada's First Century 1867–1967*, Macmillan of Canada, Toronto, 1970.

Creighton, Donald G., *The Forked Road, Canada 1939-55*, McClelland & Stewart, Toronto, 1976.

Cruikshank, Kenneth, *Close Ties: Railways, Government and the Board of Railway Commissioners 1851-1933*, McGill-Queen's University Press, Montreal/Kingston, 1991.

Currie, A. W., *Economics of Canadian Transportation*, University of Toronto Press, Toronto, 1954.

Glazebrook, G. P. de T., *A History of Transportation in Canada Volume II: National Economy 1867-1936*, McClelland & Stewart, Toronto, 1964.

Diefenbaker, John G., *One Canada: Memoirs of the Right Honourable John G. Diefenbaker – The Crusading Years 1895 to 1956*, Macmillan of Canada, Toronto, 1975.

Fleming, R. B., *The Railway King of Canada: Sir William MacKenzie 1849-1923*, UBC Press, Vancouver, 1991.

Granatstein, J. L., *Mackenzie King: His Life and World*, McGraw-Hill Ryerson, Toronto, 1977.

Gwyn, Sandra, *The Private Capital, Ambition and Love in the Age of Macdonald and Laurier*, McClelland & Stewart, Toronto, 1986.

Hill, Margaret M., *Recasting the Federal Transport Regulator: The Thirty Years' War, 1967-97*, an essay in Doern, G. Bruce et al. *Changing the Rules: Canadian Regulatory Regimes and Institutions*, University of Toronto Press, Toronto, 1999.

Innis, Harold A., *A History of the Canadian Pacific Railway*, University of Toronto Press, Toronto, 1923.

International Institute for Transportation and Ocean Policy Studies. *Hardly a Transport of Delight*, The Institute, Halifax, 1986.

Jackman, W. T., *Economics of Transportation*, University of Toronto Press, Toronto, 1926.

MacKay, Donald, *The People's Railway: A History of Canadian National*, Douglas and McIntyre, Vancouver/Toronto, 1992.

Morton, Desmond, *Canada and War*, Butterworth and Co., (Canada), Toronto, 1981.

Parks, W. A., *Handbook of Canada*, British Association for the Advancement of Science, University of Toronto Press, Toronto, 1924.

Pickersgill, J.W. *Seeing Canada Whole: A Memoir*, Fitzhenry and Whiteside, Toronto, 1994.

Pigott, Peter, *National Treasure: The History of Trans Canada Airlines*, Harbour Publishing, Madeira Park, B.C., 2001.

Schull, Joseph, *Laurier*, Macmillan of Canada, Toronto, 1965.

Skelton, Oscar D., *Chronicles of Canada: The Railway Builders*, Volume 32, Glasgow Brook and Co., Toronto, 1920.

Stanbury, W.T., ed., *Studies on Regulation in Canada*, Institute for Research in Public Policy, Toronto, 1978.

Stevens, G. R., *History of the Canadian National Railways* (*Railroads of America*), Macmillan Company, New York, 1973.

Whitaker, Reginald, *The Government Party, Organizing and Financing the Liberal Party of Canada 1930-58*, University of Toronto Press, Toronto, 1957.

UNPUBLISHED WORK

Gosse, Fred Paul, *The Air Transport Board and Regulation of Commercial Air Services*, Thesis (M. A.), Carleton University, Ottawa, 1955.