

**Current Policy Developments in
Canadian Surface Passenger Transportation**

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The views expressed in this paper are those of the authors,
and do not necessarily reflect Transport Canada policy.

OVERVIEW

1. This paper examines the historical background of government oversight of passenger rail and intercity bus service in Canada, leading to a brief description of where things stand today, and how current themes are likely to develop over the next few years.
2. The paper is written from a federal point of view. The federal government does not, however, directly regulate intercity bus service. Our vantage point for the mode is thus somewhat distant. The bus operators deal on a day-to-day basis with the provinces, and look to the provincial governments for policy development. Indeed, the operators view the federal government, with more than a trace of suspicion, as the principal bankroller of their main competition and the focus for trade-related and other broad policy developments which seem to threaten their traditional ways of operating, if not their very existence.
3. The uneasy connection between "federal" rail passenger and the "provincial" bus is one of the themes of this paper. The distinction is accidental. The federal government, in fact, has jurisdiction over both, although, as we shall see, the extent of its jurisdiction over the bus industry was an unpleasant discovery which happened within living memory. The "provincial" nature of the Canadian bus regime has certainly had an impact on the development of the industry and left it rather more divided and locally or regionally oriented than might otherwise have been the case.
4. The regional orientation of the Canadian intercity bus industry is also a reflection of the nature of the service it provides. It is theoretically possible to travel from St. John's in Newfoundland to Victoria in British Columbia through-ticketed on a bus. Were one to try it, one would face a little over five days of near-continuous travel using seven carriers and two ferries. Some people, we are sure, have done this, but the majority of Canadians use the bus for short hops, and the average journey is less than 200 km.
5. Of the seven carriers involved in our coast-to-coast journey, only one -- Greyhound Lines of Canada* -- operates long-distance service connecting a number of provinces. Indeed three of the five days of the journey would be aboard a Greyhound bus. Greyhound is by far the largest Canadian carrier, exceeding the next-largest by a factor of three, and it operates a network which extends from Ottawa in the East to Vancouver in the West. In two of the five provinces in which it operates, Alberta and British Columbia, Greyhound is also the principal local carrier. In both Saskatchewan and Manitoba, a local carrier provides most service between intra-provincial points and feeds into the Greyhound network. In Ontario, Greyhound has a number of exclusive routes between major points, but faces competition from other carriers (on alternative routings), or from transit or commuter rail service, in the most-populous segments of

* Greyhound Lines of Canada Ltd. is a subsidiary of the Dial Corp of Phoenix, Arizona and is roughly 70% American-owned. It is unrelated to the Greyhound Lines Inc., which is the major intercity operator in the United States.

many of them.

6. East of Ontario, local operators are the order of the day. Quebec has a number, all with non-competing routes. New Brunswick, Nova Scotia and Newfoundland have one major carrier each. Prince Edward Island, unique among Canadian provinces, has no significant local operators at all. Recent data for the major intercity carriers are summarized in Table 1.

TABLE 1 RECENT OPERATING STATISTICS FOR CLASS I INTERCITY CARRIERS[†]

	1990	1991	1992	1993
Carriers (no)	23	26	28	29
Operating Revenues (\$'000)	404,475	408,160	397,403	361,662
Operating Expenses (\$'000)	385,573	388,787	382,269	344,418
Operating Ratio	0.953	0.953	0.962	0.952
Employees (no)	5,110	4,776	4,406	4,034
Employee Compensation (\$'000)	179,105	176,074	165,726	148,405
Coaches (no)	1,286	1,340	1,281	1,159
Passengers ('000)	16,991	15,916	13,841	10,863
Distance Run ('000 km)	168,159	163,601	148,526	138,695

* Two carriers are publicly-owned. The Saskatchewan Transportation Company is a Saskatchewan crown corporation and is the predominant regional operator in the province. The bus division of the Ontario Northlands Transportation Commission provides service between Toronto and Ontario's "near north".

† Statistics Canada (a), 1990-1993. Coaches, in Canada, are generally called highway buses. Class I carriers are those with operating revenues greater than \$1 M.

7. The intercity carriers are, however, but one of several categories into which the Canadian bus industry is arbitrarily divided by the statisticians and, for that matter by the operators themselves. A significant portion of the industry is dedicated primarily to specialized revenue service of one sort or another — charter, contract, airport. This sector may well be larger than the intercity carriers but, as there are large numbers of small charter and speciality operators, it is chronically under-reported in the statistics. Those captured by Statistics Canada's reporting system currently (1993) have revenues of around two-thirds those of the intercity carriers and the gap between the two is steadily narrowing. These operators are even more regionally or locally oriented than the intercity carriers, but, of course, operationally, some of them range far more widely. Table 2 provides a recent statistical portrait.

TABLE 2 RECENT OPERATING STATISTICS FOR CHARTER AND OTHER SPECIALITY CARRIERS*

	1990	1991	1992	1993
Carriers (no)	62	64	83	82
Operating Revenues (\$'000)	167,828	184,606	214,569	230,072
Operating Expenses (\$'000)	162,648	176,804	207,308	220,704
Operating Ratio	0.969	0.958	0.966	0.959
Employees (no)	2,823	3,624	4,419	4,735
Coaches (no)	858	949	1,002	1,106
Distance Run ('000 km)	100,740	98,134	121,765	118,548

8. The commonality between these two categories of bus operation is the predominant use of highway buses (coaches), of which the vast majority in Canada are locally-built MCIs and Prevosts. This also is one of the things which distinguishes both categories from the much larger school busing (1993 revenues of \$861 million) and urban transit (1993 revenues of \$3,625 million) sectors. In Canada, the former predominantly use truck-based, purpose-built school buses, while the latter includes, in addition to city buses, light rail, subway, and commuter rail. For purposes of this paper, we propose to largely ignore both urban transit and school busing, but the bus categories are far from impermeable, and a few words of explanation are in order.
9. Many, if not most, of the coach-using carriers, run diversified operations, sometimes integrated, but more frequently not. This is an area which has never been comprehensively analyzed because of the complexity of the relationships, which a few

* Ibid.

anecdotal examples will illustrate:

Greyhound operates a dedicated charter operation, Brewster Transportation, which specializes in charter tours in the Canadian Rockies and which is the single largest player in the charter category, although nowhere near as dominant as its parent is among the intercity carriers.

Pacific Western Transportation, a Calgary-based conglomerate, operates transit, charter, scheduled, contract and school bus services in various parts of the country, some under the Pacific Western name, others not.

In Quebec, where school, charter, airport, urban, airport, tourist and shuttle services are all separate classes of licences, it is common for a single operator to have one or more licences in each category, and to have separate companies (sometimes commonly based, other times not) holding each.

Laidlaw, a conglomerate whose primary business is municipal waste collection, has been slowly expanding into the school bus market and is now one of the largest operators in North America. Through its school bus acquisitions, it has gained a toe-hold in the scheduled market, and, in one province, has, through acquisition, become the primary local carrier.

The limited focus of school and transit operation tends to reinforce the local orientation of the carriers.

10. Passenger rail, in contrast, has always been a "national" mode. Since Confederation (1867), the core rail network has consisted of a small number of major carriers, the number decreasing to two when bankruptcy led to the consolidation of all but Canadian Pacific into the state-owned Canadian National Railways during World War One. CN and CP continued to provide national transcontinental passenger service into the 1970s, when the surviving service was consolidated into VIA Rail Canada, another state-owned enterprise. VIA remains today, the sole provider of national passenger rail service, operating in eight of the ten provinces.
11. VIA is not the only passenger rail operator in Canada. Both Montreal and Toronto have commuter rail service and four regional railways provide passenger services, mostly in remote parts of the country. Three of the four regional railways receive an annual federal subsidy towards recovering the cost of providing passenger services. Commuter rail is subsidized by the provinces. The Ontario operation -- GO Transit -- maintains a large, integrated, rail/coach/urban bus system and is both the largest rail passenger carrier (by number of passengers) in the country and the second largest operator of highway coaches.
12. The commuter rail services are operated over the tracks of carriers (CN and CP) in federal jurisdiction and thus are themselves technically in federal jurisdiction. Nevertheless, federal policy has generally been that commuter rail services form part

of the urban transportation network and, as such, are the responsibility of provincial and municipal governments. In the past, the federal government has had limited financial assistance available for development or modernization of commuter rail. There are no such programs in place now. For purposes of this paper, we propose to confine our attention to VIA.

13. VIA operating statistics for 1990-1993 are shown in Table 3. Where possible, these are comparable to the bus statistics in earlier tables.

	1990	1991	1992	1993
Total Revenues (\$ M)	572.8	564.1	577.7	559.8
Passenger Revenue (\$ M)	142.8	150.2	155.8	164.2
Federal Subsidy (\$ M)	430.0	413.9	421.9	395.6
Total Expenses (\$ M)	541.3	524.0	533.0	548.0
Employees (average no)	4,663	4,477	4,494	4,368
Passengers ('000)	3,569	3,667	3,634	3,602
Train Miles ('000 km)	6,365	6,274	6,483	6,515

14. VIA inherited three distinct types of service from CN and CP and, over the years since its formation, the distinctions among them have tended to increase. VIA now operates eastern and western transcontinental services, daily intercity service in the high density traffic corridor in Quebec and Ontario, and provides access to remote communities in six provinces[†]. These have different passenger bases, use different equipment and, as Table 4 shows, have very different performance characteristics. The transcontinental services -- the western on in particular -- are very much tourism-oriented. Corridor service still retains about one third of all public-mode traffic and shows no signs of losing it. The remote services are a mixed lot, and a few of them are particularly sensitive because of the predominantly Aboriginal communities they serve.

* Operating statistics provided by VIA Rail Canada Inc.

[†] The remotes serve communities which have no other year-round access. One VIA service, on Vancouver Island, does not fit into any of the categories.

TABLE 4 PERFORMANCE CHARACTERISTICS OF VIA SERVICE BY TYPE, 1993*

	Corridor	Transcontinental		Remote
		East	West	
Routes (no)	8	3	2	8
Passengers ('000)	3,030	260	154	158
Load Factor (%)	59	68	79	24
Weekly Round Trips	178	9	3	22
Subsidy F (\$M)	165.3	52.1	55.1	46.3
Subsidy A (\$M)	40.1	20.4	18.6	25.3
Cost Recovery F (%)	41	26	34	9
Cost Recovery A (%)	72	45	59	15
Subsidy Per Passenger F (\$)	55	200	358	389
Subsidy Per Passenger A (\$)	13	79	121	213

F = Fully Allocated Costs, which include overhead, maintenance, marketing, stations and customer service; A = avoidable costs which exclude contributions to overhead and administrative expenses.

15. Even these basic data clearly establish just how incomparable the two passenger modes are. 84% of VIA service involves movement of passengers in the corridor. Although no comparable figures are available from the bus industry, a fair estimate would be that between 70 and 80 percent (by revenues) of traffic is generated by passengers moving outside the corridor.[†] In a very real sense, the two do not compete extensively with each other.
16. The data also show that the industries are in very different stages of development. Where the intercity bus operators are still in the process of adjusting to a declining passenger base, and still have enough flexibility to do so without major operating losses, the rail mode has a stable passenger base which is far too small to pay for the service it uses. The former is still dealing with precipitate decline in use; the latter has

* Operating statistics provided by VIA Rail Canada Inc.

[†] This estimate is based on the published data carrier revenue data (i.e. as reported in annual reports, to Dun and Bradstreet, etc.). It is thus very approximate, because only a limited selection of carrier revenue figures is available, and because, in some cases, it is necessary to estimate how much of the revenue of a particular carrier is corridor-generated.

adjusted, but at a cost to the taxpayer.

17. The second theme of the paper, therefore, is the gradual contraction of both the surface modes, and the impact this has had on public policy development. Immediate post-war trends are shown in Table 5, and yearly figures since 1976 in Table 6.

TABLE 5 PASSENGER TRAFFIC, PUBLIC PASSENGER MODES, 1946-1975*

Year	Bus	Rail	Domestic Air
	Millions of Passengers		
1946	88.1	43.4	0.45
1951	120.0	31.0	1.1
1956	64.3	26.1	2.1
1961	53.2	18.8	3.3
1966	49.1	23.2	4.7
1971	42.2	24.1	8.3
1975	34.0	23.6	13.8

18. For all that Table 5 seems to show significant declines in rail passenger traffic and major declines in bus usage, the former, in fact, was the more significant in this period, and was sufficient to bring about structural change in the rail passenger mode. The federal government went, in less than thirty years, from being the modal regulator and owner of one of the two principal entities being regulated, to sole provider of all significant intercity rail service. The bus industry, by contrast, was relatively prosperous throughout much of this period, despite the declines in usage.
19. More recently, however, the continuing declines in scheduled bus ridership may have brought the bus industry to the brink of an equally startling structural change. These declines, unlike those in rail passenger, continue from year to year, and no one is willing to say that they have finally bottomed out. In any case, the bus industry could no more survive indefinitely in its present form with ridership stabilized at current levels than VIA can survive with its stable, if low, ridership, without public support.
20. It is not within the scope of this paper to analyze whether the long-term decline of the Canadian surface public passenger modes was inevitable, or something government

* Rail and domestic air figures are from Historical Statistics (1983), Series T39-46 and T195-198. The bus figures from Statistics Canada (a) for the years indicated. The rail figures in particular are not as helpful as they could be, as they include commuter rail.

could have mitigated with different policies. Instead, our purpose is to show how, in the case of rail, the federal government sought to control the ongoing decline in passenger service, especially in light of the advice it was given at regular intervals in the 1940s and 1950s. We will then proceed to describe how the peculiarly Canadian bus regime came into existence, and how it is only now attempting to cope with the ongoing declines in that industry. Finally, we will speculate on short-term future developments.

TABLE 6 TRENDS IN DOMESTIC INTERCITY PASSENGER TRAVEL, 1976-1993*

Year	Air	VIA	Bus	Total Public	Auto	Total
	Millions of Travellers					
1976	13.9	6.9	32.3	53.1	228.8	281.9
1977	14.6	7.1	34.4	56.1	242.5	298.6
1978	15.2	7.2	31.9	54.3	247.3	301.6
1979	17.4	7.2	36.1	60.7	253.4	314.1
1980	21.2	7.6	31.9	60.7	274.9	335.6
1981	21.0	8.0	28.4	57.4	273.4	330.8
1982	18.7	6.9	29.1	55.0	267.6	322.3
1983	17.7	6.5	28.7	52.9	272.7	325.6
1984	18.7	6.8	24.5	50.0	275.2	325.2
1985	19.6	7.0	23.3	49.5	278.2	328.1
1986	20.7	6.3	21.8	48.8	281.2	330.0
1987	21.1	5.9	21.6	48.6	290.7	339.3
1988	23.1	6.4	18.2	47.9	300.6	348.3
1989	23.1	6.5	17.2	46.8	302.7	349.5
1990	22.6	3.6	17.0	43.2	304.8	348.0
1991	19.6	3.6	15.9	39.1	308.9	348.1

* Statistics Canada (a) and (b) for the years indicated; Statistics Canada (c) for 1975-1986 and Statistics Canada (d) for 1987-1993; VIA Annual Reports; Transport Canada estimates of intercity automobile travel.

1992	19.3	3.6	14.9	37.4	311.0	348.9
1993	18.3	3.6	10.4	32.3	315.4	348.1

21. As we noted above, one of the themes of this paper is the uneasy contrast between the "provincial" bus industry and "federal" passenger rail. It should come as no surprise to the reader that the two succeeding sections are discrete, and not very closely related to each other.

PASSENGER RAIL

22. It was some time before public policy caught up with the implications of the decline of rail passenger ridership and the escalating costs of providing it. In 1951, the Royal Commission on Transportation simply accepted that passenger services were to be borne by the railroads as part of the cost of doing business. It made the point explicitly (but almost as an aside) in its final report:

The freight and passenger services are essential and if the passenger fares cannot be raised to produce sufficient revenues to enable passenger traffic to pay its own way the freight traffic must bear the burden. The two services are so interrelated that segregation is not practical.*

23. One consequence of this point of view was a reluctance of the regulators, then the Board of Transport Commissioners, to allow carriers to discontinue marginal passenger services. As a result, the railways limped into the late 1950s with extensive passenger networks, and growing passenger-service deficits.
24. At this stage, it was still heretical to suggest that the difficulties with passenger rail were anything other than an inability, largely attributable to regulation, to match supply with demand. As one observer put it in 1956:

Competition has affected the railways more than other carriers but there is still a place in the passenger field for rail services if they are permitted to rationalize their services to existing requirements. Fortunately there seems to be a growing awareness by regulatory authorities of the need and importance of a realistic approach with regard to abandonment of unrenumerative passenger services. The introduction of more functional equipment such as the rail diesel car and improvements in transcontinental services have

* Royal Commission (1951), p.137.

proved their value in holding traffic and attracting new passengers.

In fact, the new transcontinental equipment purchased in the mid-1950s continues in use (re-built) to this day, and the last of the rail diesel cars still soldier on in Ontario and British Columbia.

25. In 1961, yet another Royal Commission on Transportation (the McPherson Commission) made recommendations for the regulation of the Canadian transportation system. Spurred in large part by the regulatory burden on rail freight, this Royal Commission recommended policies which fostered "competitive coexistence" among transportation modes. Fair modal competition became, and remains, the basis of federal transportation policy and it would be fair to say that the implications of the recommendations are still being worked out, three policy reviews, three major legislative changes, and 34 years later.
26. The traditional view of rail passenger services as a doing-business cost to be subsidized by rail freight revenues was inconsistent with the Royal Commission's conception. By this point, the size of the passenger train service deficit was not inconsiderable -- the Commission report put it at \$50 million for Canadian National and \$27.5 million for Canadian Pacific. The railways themselves remained optimistic in public about the prospect for self-sustaining passenger service, and the Commission took them at their word. It recommended declining direct subsidies for both railways for five years, coupled with a complete relaxation of the controls on exit from uneconomic service. After five years, the Commission recommended that "no subsidies be paid on account of the passenger service generally".[†]
27. For the purpose of this paper, the key development flowing from the 1961 Royal Commission was the divorce of rail passenger from rail freight, although there were also consequences for the motor carrier modes which we will deal with briefly in the next section. The divorce cleared the way for the major railways to exit from passenger transportation altogether, leaving successive governments with the problem of creating a new operational framework and new rules for the residual service.
28. The changes came in incremental stages beginning in the late 1960s. In 1967, the government amended the *Railway Act* to allow payment of subsidies for up to 80 percent of the losses on uneconomic rail passenger service provided in the public interest. The change came at a time when the haemorrhage of rail passengers seemed to have stopped -- in fact ridership was actually growing in the mid-1960s -- and when the maintenance of service with low or no subsidy still seemed possible. Indeed, initially, passenger subsidy payments actually declined.

* Lessard (1956), p. 105. This was one of a range of studies produced for the Royal Commission (1957).

[†] Royal Commission (1961), Vol. I, pp.58-60.

29. The subsidy provisions turned out to be something of a mixed blessing. For one thing, the carriers had to apply to abandon service to receive them. For another, the subsidy covered only 80% of operational costs. The impact of the requirement to abandon was partly psychological -- the travelling public, was given the impression (not entirely inaccurate) that the railways were determined to get rid of all passenger service. The limitations of the subsidy was insidious. Neither the railways nor the government were prepared to invest in new equipment, and eventually the ageing equipment and the escalating rail fares in the early 1970s (a time of high inflation) began to drive away passengers. By then, it was apparent that the hiatus in ridership declines in the mid-1960s had been only temporary. Rail passenger subsidies began increasing at an apparently inexorable rate of 10 percent per year, while ridership was again declining, at an equally steady rate of 5 percent. By 1975, the situation had reached an impasse: the federal government wanted to contain its costs; the railways simply wanted out of passenger service.
30. The onus then fell on the government to find an alternative. Initially, it sought to induce the railways themselves to rationalize passenger service while, at the same time, setting policy guidelines aimed at promoting commercially viable passenger services. The railways wanted none of it, partly because it did not address what they perceived as one of the main problems, capital starvation. Finally, in 1977, the government created a dedicated rail passenger crown corporation, VIA Rail Canada Inc., and transferred the remaining passenger services provided by Canadian National and Canadian Pacific into the new entity.
31. VIA was born in crisis, and was destined to live in crisis. The history of the corporation over its first eighteen years revolves around the efforts of both the Corporation and the federal government to control costs. At the same time, and occasionally independently of the cost issue, government evolved a policy and institutional framework for the corporation. And finally, both government and the corporation looked at proposals for rail revitalization. In short, the three main themes were subsidy control, institutional framework, and high speed rail.
32. On the institutional side, the two main objects were the disentanglement of VIA from the two parent railroads and the creation of mechanisms for managing its relationship with government. The former took about ten years to complete. By 1988, VIA had assumed almost all rail passenger functions which CN and CP had previously done. Charges to CN and CP for the remaining services they provide now represent about 14 percent of VIA's total operating costs, down from 65 percent in the mid-1980s.
33. Defining the relations with government was a bit more complicated. The old transportation legislation, mostly drafted with mixed passenger/freight railways in mind, continue to apply. In the mid-1980s, the government gave some thought to embodying VIA's mandate and operating rules in separate legislation, and this progressed to the tabling of a *National Rail Passenger Transportation Act* in 1986. Ultimately, less formal mechanisms were adopted. VIA management has recently (1994) been given management freedom within the context of its public funding reference levels. The

corporation communicates its intentions to the government through its annual corporate plans, which are subject to Cabinet approval.

34. VIA began life with the left-over CN and CP passenger rolling stock, all of which was already, in 1977, elderly. Equipment renewal has been an issue from the beginning. Over time, the federal government provided VIA with funding for both new stock and reconstruction of the best of the passenger equipment purchased from CN and CP. The renewed inventory is sufficient for current requirements and has probably helped stabilize ridership.
35. There is, however, a limit to what can be accomplished with traditional equipment. Since the 1960s, both the railways and government have devoted considerable time and energy to the question of whether significant increases in rail travel time could passenger rail competitive with other modes in the high-density traffic corridor in Quebec and Ontario. The most-recent high-speed feasibility study is now in the final stages of preparation. It will provide an elaborate and hopefully definitive analysis of the economic viability of a number of options for high speed service on a Quebec City-Montreal-Ottawa-Toronto-Windsor routing, or some portion of it. VIA management now, as before, strongly supports the creation of a high-speed network in what is, as we have seen, already the corporation's primary market.
36. In reality, of course, the subsidy question dominated all other VIA issues. It was obvious to most that the pattern of steadily increasing infusions of public money could not be sustained forever. It was also clear that the only reliable short-term option for cost control was service reduction. Twice, government intervened to control costs by directing VIA to abandon service. The adverse public reaction to the first of these, a 20% reduction in service in 1981, demonstrated the continuing potency of passenger rail as a political issue, and led ultimately to partial service restoration in 1985. By the time the government felt obliged to step in again in 1989 and cut service by half, subsidy payments had reached the record level of \$641 million (1988) and cost recovery had fallen to 30 %.
37. Partly to mitigate the political impacts of the 1989 reductions, the government appointed a Royal Commission on Passenger Transportation with a wide mandate to "inquire into and report upon a national integrated inter-city passenger transportation system to meet the needs of Canada and Canadians in the 21st century and to ensure that transportation links among Canada's regions and communities are maintained and improved." The Commission operated from 1989 until 1992 and, not surprisingly, it heard a considerable amount about VIA in the course of its public consultations:

By far the majority of people who appeared at our public hearings spoke about passenger rail service. The views on passenger rail were the most strongly held views that we heard. There was a

* The measure used for quantifying the cuts is train miles.

belief among most interveners that passenger rail service had served Canadians well in the past, that it was necessary for the future, and that it was faltering today because it had not been given a fair chance by the federal government.*

38. Despite the passion in the arguments, the Commission had not too much difficulty refuting all these points. Starting from principles of competition and user-pay, the Commission, in its final report (1992), recommended that the government allow VIA freedom to manage and provide it with fixed declining subsidies over a ten year period, at the end of which, "all routes be unsubsidized, and open to any fit, willing and able new entrant". The Commission also looked at high-speed rail, and recommended that the government invest only when costs exceed benefits and no operating subsidies were involved.† The similarity between the 1992 Royal Commission recommendations and those of the 1961 Royal Commission has been remarked.
39. The government has, so far, taken a half-way position with regard to the Royal Commission recommendations. It broadly accepts the idea that VIA be allowed considerable management freedom with regard to service levels and rates, and it also has accepted the principle of diminishing subsidy, but only up to a point. From a high of \$641 million in 1988, the subsidy has fallen to \$283 for the current fiscal year, and will go to \$204 million by 1997/8. At this point, no further reductions are planned, but only a foolhardy analyst would consider this the end of the story.
40. Almost unremarked in all the turmoil, VIA has some significant achievements to its credit. Ridership finally stabilized around 1980 -- all subsequent declines exactly mirror cuts in service. After becoming the butt of numerous jokes in the 1970s, the railway has achieved significant improvements in on-time performance. Much of the main-line equipment is now either new, or recently rebuilt. The question now is whether the corporation can retain its viability within the strict economic constraints that the government has placed upon it. From the public policy point of view, the question is, what should government do if it cannot.

THE INTERCITY BUS INDUSTRY

41. For the first half century or so that the Canadian intercity bus industry existed, it was entirely regulated at the provincial level and, indeed, much of its activity was strictly intra-provincial. The situation in the trucking industry was similar. Most observers assumed that federal jurisdiction was so limited as to be irrelevant. As the Minister of Transport of the day put it in 1938:

Our legal officers advise me that we have jurisdiction over trucks

* Royal Commission (1992), Vol. 1, p. 262.

† Ibid., Chapter XII.

passing from one province to another, or crossing the international boundary, or in certain Dominion Government parks. It was felt ... that such jurisdiction as we have in is too limited to be particularly effective, under conditions that prevail in Canada, and in view of the strenuous opposition of the provinces...*

42. A bus case radically altered this perception of the constitutional situation. In the late 1940s, Mr. Israel Winner, who ran a scheduled bus service between Boston and Glace Bay in Nova Scotia, was forbidden by the regulatory authorities in New Brunswick, through which he had to pass, from carrying passengers between points within the province. Mr. Winner promptly announced that he would continue his operations within New Brunswick until the courts told him that he couldn't. Ultimately the Winner case went all the way to the Judicial Committee of the Privy Council -- the last such appeal permitted by Canada -- and, their Lordships surprised everybody, in February 1954, by determining that federal jurisdiction not only captured all motor carriers operating extra-provincially, but also all the intra-provincial operations of these carriers. New Brunswick, therefore, did not have the power to prohibit Mr. Winner from carrying passengers between points within the province. Nor did it, or any of the other provinces, have the power to control the intra-provincial operations of truck undertakings in federal jurisdiction.
43. The Winner decision sent a shock wave through the federal and provincial transportation departments. At a stroke, it moved a large and growing portion of the Canadian trucking industry (around half by one contemporary estimate) into federal jurisdiction, along with a much smaller (both absolutely and proportionally) part of the intercity bus industry. Neither level of government was prepared to change; the provinces did not want to surrender control of the motor carrier industry and the federal government did not want to assume it. A hastily convened federal-provincial conference in April 1954 considered two alternatives: a constitutional amendment and federal legislation which would allow the provinces to continue to regulate extra-provincial motor carriers. Not surprisingly, the latter was considered "the more feasible method, having regard to the many various problems involved in obtaining amendment to the constitution". The federal delegation tabled draft federal legislation which was approved by a majority of the provinces.[†]
44. This draft Bill, the *Motor Vehicle Transport Act* (MVTA), became law at the end of June 1954 and has regulated control of the bus industry ever since. A simple piece of legislation (originally it had only seven clauses), it allows any province which licenced local motor carrier undertakings (i.e. those which operate entirely within the province), to licence extra-provincial ones "in like manner".

* Quoted in Part II of the Royal Commission (1940).

[†] This account is derived from departmental records, and the quote is from the final press release (28 April 1954).

45. As long as truck and bus remained yoked together, all major regulatory developments were driven by surface freight concerns. Both the surface freight modes quickly became dissatisfied with the MVTA regime, although for diametrically opposed reasons. The rail carriers believed that trucking was barely regulated at all:

Control of the [trucking] industry is very loose, some provinces making no attempt to control entry into the business or to regulate rates; the railways on the other hand, must publish, file, and adhere to, their rates.*

Truckers, on the other hand, complained of the inconsistencies of overlapping provincial regimes.

46. For the intercity bus industry, the MVTA was less of a burden. For one thing, the industry remained a series of loosely connected, short-haul, regional operations. Unlike trucking, the industry was, as we have seen slowly shrinking. The MVTA regime reinforced this regional focus and cushioned the industry against the effects of the shrinkage. For the bus industry, the MVTA regime became, and to some extent remains, a guarantee of stability.
47. Change, when it came, was embodied in the principles of modal balance and competition recommended by the 1961 Royal Commission. When the federal government moved to introduce transportation legislation implementing the new national transportation policy, however, it found itself faced with both a practical dilemma and a philosophical one. A challenge to the constitutionality of the MVTA was working its way up to the Supreme Court and, as a practical matter, the government was determined to avoid the rush to legislate which had followed the Winner decision. Philosophically, the government faced the problem of how to implement an intermodal policy when two of the transportation modes were, through federal legislation, under provincial control. It is difficult to say which concern was more important, but the practical outcome was Part III of the new *National Transportation Act* (NTA), which put in place a legislative framework for a federally-run regime for both truck and bus.
48. In practice, this was a still-born exercise -- the federal government never implemented Part III, in part because the Supreme Court upheld the MVTA[†]. The

* Royal Commission (1957), p. 276. This is very much a rail point of view. Elsewhere (p. 271), the commissioners note the Canadian Trucking Association's contention that "limitations of the railways' ability to compete with them are small or non-existent in practice."

[†] For an assessment of the relative importance of the constitutional challenge (the Coughlin case) to the implementation of Part III, see Schultz (1976). Ironically, the only carrier in Canada ever regulated under Part III is a bus operator, specifically placed under the federal regime to escape provincial rate regulation. In June 1995, the Federal Minister of Transport introduced a new *Canada Transportation Act*, replacing the NTA, and this finally eliminated the phantom federal truck and bus regimes.

debate over implementation, which went on for several years in the early 1970s, centred almost entirely on trucking issues. From the point of view of the bus industry, the situation demonstrated how completely its future remained tied to that of trucking. It was not until the latter was deregulated in the late 1980s, that bus industry finally got its own legislation, or, more accurately, was left in sole possession of the old motor carrier rules.

49. Given the legislative situation, truck deregulation was a joint federal-provincial initiative agreed after months of negotiation in 1983-85. By this point, bus deregulation was definitely a factor in the discussions, if only because of the example of the United States which had deregulated in 1982. But there was no real momentum towards change. No group or province wanted it -- in contrast to the situation in trucking where there was large and vocal pro-deregulation shipper lobby.
50. When federal legislation finally went forward in 1986, the bus provisions were unchanged from 1967 (in the new *National Transportation Act*) or indeed 1954 (in the new *Motor Vehicle Transport Act*). Economic regulation (at the discretion of the individual province) remained the order of the day. And the bus industry went on as before.
51. The tranquility of the bus industry in 1987 was more apparent than real. Beneath the surface, the slow decline of the industry was beginning to cause structural change. At the top, a number of the key players divested or exited. On the public side, municipal transit operators in the Ontario cities of Hamilton and Toronto sold off their intercity coach operations (Canada Coach and Gray Coach respectively). On the private side, the CSL (Canada Steamship Lines) Group, which had a major stake in intercity bus operations in Quebec and eastern Ontario, sold off its intra-Quebec routes to a number of successor companies and, later, trimmed routes in Ontario as well.
52. The most obvious outcome of these changes was a significant growth in industry concentration, particularly in Ontario. Both the Ontario routes of the CSL Group and, after an interval, Gray Coach, were purchased by Greyhound. At the same time, CSL divestment significantly reduced the size of the second largest carrier group. As a result, Greyhound's share of total intercity revenues increased from around 30% in the mid-1980s to around 40% now.
53. A less-obvious outcome was the entry of some new blood into the intercity industry. The divestment of CSL assets in Quebec resulted in the creation of several new bus operations, mostly owner-run (the largest being purchased by former CSL managers). These, so-far, have been fairly conservative in their outlook. In Ontario, on the other hand, the changes have increased the prominence of the aggressive and owner-run

* The comparison is between total intercity revenues for Class I carriers as reported by Statistics Canada, and Greyhound revenue figures as reported in its annual reports. The comparison is imprecise. The exact percentage, based on revenues reported to Statistics Canada, is protected by confidentiality requirements and unavailable to the author.

Trentway-Wagar Inc, which expanded its scheduled operations in the late 1980s, partly by purchase of Canada Coach. It is now in as close to direct competition with Greyhound in some parts of Ontario as the current rules will allow. From our point of view, Trentway-Wagar is important because, in 1994, it became the first carrier in Canadian history to write to the federal Minister of Transport to suggest federal bus deregulation as an appropriate solution to the restrictiveness of the provincial rules. So far, it is the only one.

54. As the industry was changing, so too was government. When the new federal transportation legislation came into force in 1988, the provincial bus regimes were still reasonably consistent. All still rigorously controlled entry -- one in fact had only recently revoked an order prohibiting new entry. John Hibbs, in his 1985 survey of international bus regimes, found that :

although the statutes and regulations of the provinces vary in detail, there is an essential similarity in their approach to regulation, so that for the whole of Canada there are severe administrative barriers to the admission of new competition to the intercity bus industry.

Incidentally Hibbs found that Newfoundland had the least accessible bus industry in the world.*

55. Were Hibbs to survey the Canadian provinces today, he would find a growing diversity of regulatory approach. Newfoundland, now, is virtually deregulated. So too are New Brunswick and Prince Edward Island. Alberta is moving towards what it characterizes as a "mid-way" position, which is effectively a streamlined and flexible economic regulatory regime. Other provinces, however, still maintain full traditional economic regulation.
56. The change in the provincial positions has been driven in part by the further shrinkage of the passenger base in the recent recession. The changes in Alberta, for example, were prompted by concerns about the long-term viability of scheduled bus service in the province, particularly on rural routes. The province recorded a 30 percent decline in all traffic between 1990 and 1994.†
57. The Royal Commission on Passenger Transportation presented the bus industry with something of a dilemma. On one hand, the Commission finally provided the industry with a national forum for airing its views on government policies which it perceived as being injurious: taxation and modal fairness, in this context public subsidy of passenger rail and expanding urban transit networks. On the other, it was inevitable that any

* Hibbs (1985), pp. 64, 88.

† Alberta Policy Statement (1995).

proper examination of public policy would have to consider the implications of deregulation, especially in view of the treatment of other modes. In a very real sense, the industry and the Commissioners talked through each other, the former strongly supporting the regulatory *status quo*, and the latter investigating the implications of regulatory change.

58. The industry position on regulation was summed up in the Canadian Bus Association brief (1990). Noting that the economic regulatory framework had allowed the industry to create and maintain an extensive route network, the Association maintained that this had "created a 'win-win' situation for Canada - service to small communities with no necessity for government subsidy". The brief went on to suggest that, in the United States, the bus service networks had "suffered greatly" as a result of deregulation.*

59. The Royal Commission, in looking at the industry, asked four questions:

What is the role of bus in delivering economical transportation service to Canadians?

Would this role be more effectively performed if the industry were open to more new entrants?

Would the intercity bus industry remain viable and competitive if economic regulation were substantially relaxed?

Would a less-regulated bus industry still deliver transportation service to Canada's rural communities?

On the first and fourth questions, it was close to agreement with the industry. It acknowledged the extensive route network maintained by an industry which the Commission agreed, among passenger modes, "came closest to paying its way". It also shared the industry concern about the likely impact of regulatory change on rural service. On questions two and three, however, the Commission took the opposite position from the bus operators, concluding that new entry and deregulation were essential to revitalizing the industry. The Commission therefore recommended deregulation, with transitional subsidies to cushion the impact on rural service.†

60. The Royal Commission recommendations sounded an alarm bell for most of the industry and many of the provinces, and certainly helped create the environment in which the subject of deregulation could be broached. The impetus to begin formal discussions on deregulation, however, was the Canadian internal trade negotiations. As the transportation sector provided a considerable number of anecdotal examples of

* CBA (1990).

† Royal Commission (1992), Vol 1, pp. 287-301.

internal trade barriers -- some of them even accurate -- a sectoral negotiating table was an obvious development. This was established in the autumn of 1993 and one of the first exercises it undertook was an inventory of transportation rules which impeded trade. Among these was economic regulation of the intercity bus industry.

61. It was quickly apparent that trade negotiations were not the appropriate place to reach consensus on the future of the bus industry. Even on the fundamental question of whether economic regulation of the industry breached the basic trade principles in the draft agreement there was no shared view. Proponents of change argued that economic regulation was a restriction of trade in transportation services across provincial boundaries. Opponents cited the broad principle of allowing jurisdictions to establish and maintain measures which met legitimate objectives, which were ultimately defined as including "the availability and quality of transportation services facilities and services". Government negotiators representing both views were united in their determination not to see the issue resolved by trade arbiters as provided in the Agreement.
62. In the end, an elaborate compromise was reached for dealing with outstanding issues, of which bus regulation was by far the most significant. Jurisdictions were allowed to list (a euphemism for exemption) measures which it thought might be open to challenge under the Agreement. However, exemption came with a price. Jurisdictions were obliged to attempt to liberalize or remove listed measures biennially, and, when a jurisdiction (or a private party acting through a jurisdiction) raised an issue relating to one of the listed measures, the federal and provincial transportation ministers were obliged to develop a plan (on a consensus basis) to deal with that issue.
63. The Agreement on Internal Trade then became the means whereby Transport Canada initiated discussions of the bus issue. Through the federal and provincial deputy ministers of transportation, the department proposed the creation of a government/industry task force to develop recommendations for the future of the bus industry, at the same time making it clear that it viewed industry deregulation as the main topic for discussion. In the event, all provinces except Prince Edward Island, and all four industry associations (one national and three regional) accepted the invitation and the Task Force assembled for an initial meeting in April 1995.
64. At that initial meeting, the industry intervention was largely confined to the rhetorical question, "Why are we here?" What, exactly, does government see as being the problem? For a federal official, the question is very pointed indeed. Why should the federal government, which has traditionally left the industry to the provinces, feel the need to lead an examination of industry, indeed to promote industry deregulation? It is a question that requires a careful answer.
65. As we have seen, the federal government has recently been advised by a Royal Commission and asked by major carrier to take the lead on this issue. Neither, however, is entirely compelling. Intercity bus is, as the Commission admitted, the passenger mode which comes closest to conforming to its "user pay" philosophy. The

Commission would, we think, have accepted that there are other, larger passenger issues requiring attention, which are, in addition, within areas where the federal government has been accustomed to exercise control. To a considerable extent, Transport Canada is currently addressing these, but that is beyond the scope of this paper. The request from the carrier would have been more useful if it had evoked some support from other carriers or from one of the industry associations.

66. Nonetheless, there are perfectly good public policy reasons why the federal government should become involved, and involved now. As noted earlier in the paper, the slow decline of the industry has been a continuing development for over forty years. Now, the central question is how much longer can the industry shrink and still sustain itself. Recently, Transport Canada commissioned a study on the impact of regulatory change on the industry and produced internally an analysis of industry performance. Both are moderately pessimistic.
67. The industry performance study * covered the decade 1981-91, a period in which, as we have seen, ridership on intercity carriers fell by almost half. It found a heavily indebted industry, which had suffered significant productivity losses in the course of the decade, in which profitability was so low in most years as to not provide an adequate return on investment, and which had reached the point where service price increases (60% over the decade) intended to contain costs were, in fact, driving away customers. Charter carriers, although more-heavily indebted, were a little better off than the scheduled ones. The industry, in short, had become very vulnerable to even modest market swings.
68. The regulatory study, among other things, picked up on the low return on investment and industry indebtedness. The report noted that declining profitability together with uncertainty over the future of the regulatory regime had not only made investment capital a problem for the carriers, but also was actually an incentive for divestment, and, indeed the motivation for the industry shake-out in the late 1980s. The report warned that continuing divestment was likely unless there was a rapid and dramatic growth in industry profitability, and predicted "a major [industry] rationalization phase within five years, even if the economic regulatory framework remains unchanged". †
69. In short, government has ample warning that the industry *status quo* likely cannot be sustained indefinitely. Clearly some government/industry consultations on the future government role are indicated, preferably before the incipient crisis becomes real. Realistically, the federal government is the most appropriate leader in the field, having the means to implement a national policy, as it did for trucking in similar circumstances in 1988.

* Roy (1995)

† Proteus (1994), p. 40.

70. The central issue for government in any discussions is economic regulation, because all policy flows from the basic decision whether to retain or loosen government control. Once this is settled, the rest follows more-or-less logically. Without the issue being explicitly settled, governments ultimately have no choice but to contemplate some form of intervention to maintain the scheduled service networks which have grown up under regulation. With a decision on economic regulation, governments will regain policy freedom to plan for their future role.
71. It might be asked why this indebted, shrinking, battered industry is not itself calling for change. Surely the carriers can read the balance sheets better than the bureaucrats? The answer can be found partly in the inherent conservatism of the industry, and partly in the complex carrier structures which we mentioned earlier. The latter are more interesting. Ballasting much of the industry is carrier (or carrier group) participation in one or another of the more-stable sources of bus revenue. Here a school-bus contract; there contract service; elsewhere participation in urban transit, contracting for either transportation services or vehicle maintenance (or both).
72. These are still viable strategies for carrier survival. The industry as a whole is probably in somewhat better shape than analysts have found relying on the arbitrarily pigeon-holed industry data. However many of the strategies which work now are dependent to some degree on public funding -- entirely so in the case of school bussing -- and are themselves vulnerable to public policy changes, especially in this era of government retrenchment. So, in the end, no shelter may be entirely safe.
73. If the industry is still mostly intent on clinging to the wreckage, the attitude of the provinces is more complex. Their stance in the Bus Task Force illustrates this. A few remain publicly committed to maintaining strict economic regulation (at the other extreme, two are suggesting complete deregulation). All, however, agree that they are willing to consider all reasonable options. One can only suppose that at least some of them are nervous about the possibility that public funding may be the only way to maintain the current system. They need look no further than VIA to see where that can lead.
74. Transport Canada has opened proceedings by explicitly endorsing deregulation as being the only reasonable tool to hand for dealing with the developing situation in the industry. This has certainly got the attention of both the industry and the provinces and has created a situation in which the onus is on proponents of the *status quo* to defend it. It will shortly be seen just how strong the defence will be.

SUMMARY

75. The recent history of both public modes is almost entirely one of coping with declines in use. There are no indications that this trend is likely to be reversed. Indeed, the overall trend in the public domestic modes is downward, the gains in domestic air being nowhere nearly large enough to compensate for the losses on the bus side (Table 6).

76. These declines in intercity bus passengers have finally brought both government and industry to the point of contemplating change. Whether contemplation will be succeeded by action remains uncertain. The Bus Task Force has fifteen months remaining to work towards final recommendations in September 1996. Given the previous history of the file, and the wide divergence of regulatory position among the provinces, it is entirely possible that the Task Force will achieve a consensus which stops short of immediate, radical change. It is equally possible that the Task Force will achieve agreement to circumscribe economic regulation of the industry, or some part of the industry. Whatever the policy recommended, it is unlikely, in itself, to stem the decline of the industry. It should, however, clarify the positions of both government and industry with regard to dealing with the decline.

77. With passenger rail, the government position is clearer. The projected reductions in public subsidy are unlikely to be revised upwards. VIA is being asked to manage within clearly-established and diminishing subsidy levels. Although there are some opportunities for fare increases, particularly in the tourist-oriented transcon, these are limited. VIA management will be obliged to make decisions on service levels as early as next year. The government retains the power to intervene in VIA's decision-making through approval of the annual corporate plans. The initiative, however, is with the corporation.

78. The latest high-speed rail study will be released within the next few months. The one thing that is certain at this point is that the price tag for network construction will be high, probably in the \$15-20 billion range. That alone will discourage government, which awaits, with interest, the study conclusions regarding the costs and benefits of construction.

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