

## CANADA'S NATIONAL TRANSPORT POLICY

BY J.W. PICKERSGILL\*

A new national transportation policy is being implemented in Canada and a new unified regulatory approach for all modes under federal jurisdiction has been coming into effect in stages since the National Transportation Act received Royal Assent on February 9, 1967.

The object, stated in Section 1 of the Act, is "an economic, efficient and adequate transportation system making the best use of all available modes of transportation at the lowest total cost." This is declared to be "essential to protect the interests of the users of transportation and to maintain the economic well-being and growth of Canada."

How are these objectives to be achieved? The Act states that they "are most likely to be achieved when all modes of transport are able to compete." Competition between the modes is the essential ingredient of the national transportation policy.

The responsibilities of the Canadian Transport Commission are regulation and research. The major regulatory responsibility is to prevent unduly high rates in conditions of monopoly or, in conditions of competition, unprofitable rates that may throw an unfair burden on other traffic or undermine a more efficient mode. The research responsibility is to uncover better solutions to national transportation problems and to keep the development of transportation policy abreast of constant technological change in all branches of the industry.

Bringing into effect a new national transportation policy, particularly under a unified regulatory structure embracing all modes, is not a simple task. Acceptance of the new policy, when the legislation was before Parliament, might well have been impeded by the fact that one of the two transcontinental railways in Canada is publicly-owned. For many years, the trucking industry was suspicious that the federal Government, even with the best of intentions, would not regulate impartially because it might be expected to have paternalistic feelings, and perhaps discriminatory policies, favouring the publicly-owned railway. This suspicion was understandable, if we consider the experience of the trucking industry in some countries where government ownership of railroads exists. However, the very first section of the new Act, from which I have already quoted, contains a statement of the

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\*President National Transport Commission of Canada.

national transportation policy of Canada, including the provision that "regulation of all modes of transport will not be of such a nature as to restrict the ability of any one mode of transport to compete freely with any other modes of transport." This direction by Parliament binds the Government and the Commission so as to ensure fair treatment of all modes. It evidently reassured the trucking industry; in its submission to the Standing Committee on Transport and Communications of the House of Commons on November 3, 1966, the industry stated that it supported in principle the Bill which has led to the present Act.

To carry out the national transportation policy, the Act created a Canadian Transport Commission. The Act applies to federal undertakings in the rail, air, water, commodity pipeline and motor vehicle transport fields—a federal undertaking being one that connects a province with any other or others of the provinces or extends beyond the limits of a province.

To carry out its responsibilities, the Canadian Transport Commission is divided into functional Committees for each mode of transport—rail, air, water, motor vehicle transport and commodity pipeline transport. The Railway Transport Committee of the new Commission is the functional successor of the Board of Transport Commissioners, which had regulated railways in Canada since the early 1900's. The Air Transport Committee and the Water Transport Committee are the functional successors respectively, of the former Air Transport Board and the Canadian Maritime Commission.

Although all committees are in existence, as required by the Act, the Commission does not, as yet, regulate extra-provincial 'for hire' truck and bus transportation nor commodity pipeline transport. These parts of the Act can be proclaimed in force by the Governor in Council (federal Cabinet) when considered desirable.

There has never been in Canada a federal regulatory board for extra-provincial truck and bus operations, although the federal Parliament's jurisdiction in this field was confirmed in a decision of the Judicial Committee of the Privy Council in 1954. Under the Motor Vehicle Transport Act, passed by Parliament in 1954, the existing provincial regulatory boards have been carrying on as the regulatory agents of the federal Government. The provincial boards are directed in the Motor Vehicle Transport Act to issue an extra-provincial operating license "upon the like terms and conditions and in the like manner as if the extra-provincial undertaking operated in the province were a local undertaking." The provincial boards have performed a valuable service

in a field of federal responsibility but the growth of the extra-provincial truck and bus industries has reached a point where the existence of ten different systems of provincial control, all drawing authority from one federal statute, is causing serious problems for the industry. The Motor Vehicle Transport Committee of the Commission has been carrying on discussions with representatives of the provincial governments regarding this problem. The object is to find a format for the implementation of the Commission's extra-provincial regulatory powers, hopefully in a way that will meet the needs of shippers and carriers and, at the same time, recognize the continuing interest of provincial governments in the one mode of transport whose regulation all along has been by a provincial agency.

The commodity pipeline transport provisions of the National Transportation Act have not been proclaimed because there is no commodity pipeline transport as defined under the Act in existence in Canada. This picture is likely to change in the next year or so.

Most of the 17 Commissioners of the Canadian Transport Commission have been assigned to more than one Committee, although all have one Committee which is their main responsibility. It must be remembered that each Commissioner shares with his colleagues a responsibility for administration of a national transportation policy involving all modes. Rather than allow their Committee responsibilities to act as blinkers and to restrict their approach intermodally, they are, on the contrary, required constantly to exercise their talents regarding the most effective implementation of the national policy.

Thus, while there are within the Commission problems peculiar to each mode of transport—problems which are constantly under review by the Commissioners assigned Committee responsibilities in these areas—the Commission as a whole is developing, as it must, an intermodal outlook to the performance of its regulatory responsibilities.

This outlook is of great importance to the success of the Commission's performance of its second major responsibility—research. For the Canadian Transport Commission, in addition to being a regulatory body, is a research body as well. It has broad powers for investigating transportation development and policy and rendering its reports on these matters to the Minister of Transport. Its term of reference is that the Commission "shall" do these things. The role of a permanent inquiry into all facets of Canadian transport development and policy is so far ranging under the Act that a large expert research staff is required and is now being organized under a

Commissioner charged with the research responsibility and acting "under the general directions of the Commission."

In seeking to promote the best possible transportation system through competition among the modes of transport, the National Transportation Act recognizes the competitive facts of life to which public policy in Canada has been slow to respond. Our enormous land mass, and relatively small population, only now nudging 21 million, made the railway essential to national birth and survival. Technologically, no other mode of transport in 1867, the year of Confederation, could link the scattered provinces and enable the movement of our people and the commodities they produced. For this reason, our first transcontinental railway, the Canadian Pacific, was as much a part of Confederation as the Act which brought Confederation into being.

At the beginning of the 1920's other privately-owned railways and certain publicly-owned lines, were, of necessity, brought together in a huge conglomerate, Canadian National Railways, one of the largest railway systems in the world. Thus, in effect, we had two transcontinental railways competing in Canada, one privately-owned, the other publicly-owned, with all that implied in maintaining the delicate balance that would enable the publicly-owned system to progress but not put the privately-owned system under.

Even in the early 1920's, the technology of transport was such that national survival still depended in the main on our railway system. Although major competition of alternate modes was in the offing, its effects were barely perceptible at this stage and its consequences, from the standpoint of public policy, unforeseen.

Water transport had always been a factor of great importance in certain parts of Canada. It became more so, with significant impact on the economies of both Eastern and Western Canada, with the development of the St. Lawrence Seaway. But the all-embracing impact on the economy was that of the railways. It was natural, therefore, that railways, and problems of railways, should dominate the transportation policy of Canada for many decades.

One Canadian politician of an earlier day ringingly declared: "Railways are my politics!" Not unnaturally the solitude of the Canadian Pacific, as the only transcontinental line, was broken in time by the new transcontinental ventures to which the Canadian National fell heir. Indeed, the atmosphere of railway building became obsessive to a point where the nation had more railway mileage than it could economically sustain, a problem that has come home to roost on the

doorstep of the Canadian Transport Commission in applications for abandonment of several thousands of miles of branch lines.

The sputtering of the early automotive vehicles along the dirt roads of Canada was transformed in time to a pulsating roar of traffic on improved paved highways built by the provinces, including a transcontinental highway to which the federal Government, by March, 1968, had contributed some \$714 million. The formation of truck and bus associations was a sign that the growing number of operators serving this field had begun to think and act as an industry.

By their very characteristics these new transport industries did not and could not assume the 'global' obligations of law and public policy imposed upon the railways and carrying over from the monopoly era. For a time the new truck and bus industries had to bear the stigma of "unfair competition". A deeper perception would have revealed that these modes, with the parallel development of air transport, were quietly revolutionizing the transportation scene in Canada. Services of a kind never before available, and, of great benefit to industry and the travelling public, established a momentum of new transport development. A public policy dilemma was in the making. Monopoly regulation of railways—the latter now only a part of a transport system comprising, as well, air, water and motor vehicle transport, with commodity pipeline transport in the offing—no longer made sense.

Although such regulation was impeding the competitive potential of the railways, the problem was still that the railways remained the dominant economic power. Their economic strength far exceeds that of their competitors, particularly when one measures it against the multiplicity of individual operators that make up the other transport modes. As Minister of Transport I stated on more than one occasion my strong aversion to the use of non-compensatory rates to put out of business a more efficient transport service rendered by a mode that was economically weaker. This was a major problem faced in the drafting of the National Transportation Act. Could we allow full play to the competitive potential of all modes and, at the same time, set the rules of the game so as to prevent unwise or destructive use of the economic power of any one of the modes?

In this respect, the report of the MacPherson Royal Commission on Transportation was most helpful to the Government. That Commission, composed of six Commissioners, held hearings for 134 days throughout Canada in 1959-60. The Commission made recommendations to the Government of the day founded on the concept that transport efficiency would be promoted by giving full rein to

competition between the modes. This was qualified by the recommendation that there be protection against non-compensatory tariffs and also protection for the public in any remaining areas of significant transport monopoly.

It is true, of course, that the movement of certain important commodities remains a monopoly of Canadian railways and that the technology of mass transportation is likely to perpetuate this situation for the foreseeable future. For this reason, rates on the movement of these commodities, lacking the control exerted by competitive forces, required a system of maximum rate control with the right of complaint by the shipper to the regulatory body. This protection for 'captive' shippers is to be found in the National Transportation Act.

The MacPherson Commission did not recommend the establishment of a national transportation authority that would integrate federal regulatory functions, let alone the federal responsibility for transportation research. These additional steps were considered desirable by the Government which, in 1966, during a nation-wide railway strike, introduced Bill C-231 (the National Transportation Act) in the House of Commons.

The Bill was generally well received by the shipping public and the transportation industry. Shippers and the railway benefit in the Act by the removal of archaic restrictions—for example the provision that rail rates must be charged at the rate of so many cents per hundred pounds per carload—thus opening the door to multiple car and trainload rates. But it is specified that a freight rate must be compensatory and 'compensatory' means *exceeding* the variable cost of the movement of the traffic as determined by the Commission. Moreover, the right of appeal against a railway rate alleged to be non-compensatory is extended, for the first time, to truck operators, whether under provincial or federal jurisdiction. Part III, which, in the event of proclamation by the Cabinet, will extend the control of the Canadian Transport Commission to licensing and rate filing of extra-provincial trucking firms.

Intermodal relationships and common ownership of transportation facilities are not prohibited by the Act but they are subject to regulatory provisions for the protection of the public. For example, the proposed acquisition of a transport undertaking by a mode of transport under the jurisdiction of Parliament may be objected to on the grounds that "it will unduly restrict competition or otherwise be prejudicial to the public interest". If, upon investigation, the Commission finds grounds to sustain the objection it may disallow the acquisition.

The protection afforded in regard to the provision of piggyback

facilities, while I do not cite it as one of the most significant provisions, does typify the approach taken in the Act. It requires that a railway company providing facilities for the movement of trailers shall offer to all trucking companies—whether rail-owned or independently-owned—similar facilities at the same rates and on the same terms and conditions.

One measure of the extent to which the Government succeeded in presenting a Bill that treated fairly all modes of transport can be seen, I believe, in the reaction of the trucking industry to it. Canadian Trucking Associations in its submission of November 3, 1966, to the Standing Committee on Transport and Communications of the House of Commons, stated:

“ . . . There can be no fear that national transportation policy can be maneuvered in a direction oriented to the interests of any one form of transport. On the contrary, after years of strife and controversy in the transportation field, we now see a Bill under which all forms of transport, competing freely with each other, can concentrate fully on the achievement of the best possible transportation service at the lowest overall cost for the people of Canada.”

“The trucking industry supports Bill C-231 in principle. The industry and its Associations will co-operate to the best of their ability in the successful achievement of the national transportation policy.”

The National Transportation Act began a reversal of the mounting subsidization of the Canadian railways which had taken place in the years 1959-1964. The procedure was to roll back non-competitive rates of the railways pending the implementation of legislation stemming from recommendations of the MacPherson Royal Commission on Transportation. The pressure on the non-competitive rates had begun with an across-the-board increase in freight rates—what was described as a “horizontal” increase in freight rates—authorized by the Board of Transport Commissioners in 1959 in order to meet increased wage costs. The rate roll-back occurred in 1959, under authority of the Freight Rates Reduction Act and the amount allocated initially to compensate the railways was \$20 million. To mitigate the increased pressure of two further wage increases, the payments to the railways had risen to in excess of \$100 million per year at the time Bill C-231 was brought before the House of Commons on the 29th of August, 1966. This process could not continue indefinitely. The increasing

subsidies would have reached astronomical proportions and would have imposed unfairly on the taxpayers of Canada and on competing modes of transport whose own cost pressures on rates were not relieved by Parliamentary subsidies.

With the new rate regulatory provisions in the National Transportation Act, permitting the interplay of the competitive forces in transportation and providing maximum rate protection for shippers 'captive' to one mode, the time for a roll-back of the subsidies was at hand. The National Transportation Act provides for consecutive annual reductions of \$14 million per year with a final payment of \$12 million, over an 8-year period, in order to eliminate this type of subsidy. The only new payments that will be made will be those for railway services determined by the Commission to be uneconomic but which the Commission decides should not be discontinued.

We have attempted in the National Transportation Act to bring our whole approach to transport development in Canada up to date: to regulate when necessary but only when necessary. Otherwise the interplay of competitive forces will fashion the variety and standard of the services offered and the level of rates of the competing modes.

The research function of the Commission will, we are confident, assist in the solution of pressing transport problems and do so in a way that will increase the efficiency of our transport system. This is of particular importance in Canada, where our capital investment in transport serves a relatively small market, especially when compared with the United States. It has been estimated that more than 20 percent of our total annual expenditures for goods and services or our gross national product are made either directly or indirectly for transportation of one kind or another.

It is a matter of prime importance to Canadians that we do all that is within our power to keep our investment in transport at a reasonable level, consistent with the most efficient system that can be devised. Whether we are on the right road in the way we are now approaching the problem, experience will tell. It is my belief that we are aimed in a direction that will give us better value for our transportation dollar. Certainly our experience as we proceed should be of interest and assistance to all concerned with "an economic, efficient and adequate transportation system".