

Chapter 15

Transportation

15.1 Government promotion and regulation

The federal government plays a twofold role in developing transportation services. One is promotional, to ensure the growth and development of the kind of transportation appropriate to the times; the other is regulatory and includes economic regulation of rates and services and also the application of technical regulations to meet safety requirements. The building of canals from the time of Confederation to the construction of the St. Lawrence Seaway, underwriting railway development and branch-line extension, establishing Air Canada, investing in airports and aeronautical installations and building the Trans-Canada Highway fall within the first category as each was to promote adequate transportation facilities.

The Ministry of Transport and the various Crown agencies reporting to Parliament through the Minister of Transport have jurisdiction over canals, harbours, shipping, civil aviation and interprovincial and international railways. Jurisdiction over for-hire interprovincial or international highway transport also rests with the federal government but these powers are at present exercised by the provincial highway transport boards as provided for in the federal Motor Vehicle Transport Act of 1954 (RSC 1970, c.M-14).

Railway regulation was developed in a period when railways enjoyed a virtual monopoly of transport in the country. Measures to protect the public against excessive charges, unjust discrimination and other objectionable monopoly practices, together with measures to ensure safe operations, have over the years subjected railways to the most comprehensive regulation of any Canadian industry. However, the rapid growth of road, air and pipeline services has ended the monopoly of a large part of the total traffic available and forced the railways into a highly competitive situation.

The National Transportation Act (RSC 1970, c.N-17) defines a national transportation policy for Canada with a view to achieving an economic and efficient transportation system making the best use of all available modes of transportation at the lowest total cost. The Act established the Canadian Transport Commission (CTC) to carry out the functions formerly performed by the Board of Transport Commissioners for Canada, the Air Transport Board and the Canadian Maritime Commission. In addition, it created a framework within which the CTC might regulate interprovincial and international motor transport as well as the transportation by pipeline of commodities other than oil and gas.

In general, the purpose of the Act is to develop the transportation industry and at the same time protect the public against excessive or discriminatory charges by competition between forms of transport rather than by regulation and control. The railways are relieved of some of the more onerous and outdated restrictions on their freedom to meet competition. On the other hand, a shipper who has no practical alternative to rail shipment can apply to the Commission to have a maximum rate fixed for transporting his goods. The Act also provides a procedure to allow railways, subject to explicit safeguards in the public interest, to abandon lines and withdraw passenger services where they are no longer needed.

The Canadian Transport Commission has established several committees, five of which — Railway Transport, Air Transport, Water Transport, Commodity Pipeline Transport and Telecommunications — exercise the Commission's powers in their respective industries. The Commission is a court of record; its decisions are binding within its jurisdiction and may be reviewed only by appeal to the Supreme Court of Canada on a question of law or jurisdiction with leave of that Court, or by the Governor in Council. However, a party to a licence application under the Aeronautics Act or the Transport Act may appeal to the Minister of Transport. The Commission has jurisdiction under several acts, including the Railway Act, the Aeronautics Act and the Transport Act, over transportation by railway, by air and by inland water, and over communication by telephone and telegraph.

Under the Railway Act the Commission has jurisdiction over construction, maintenance and operation of railways that are subject to the legislative authority of the Parliament of Canada, including matters of engineering, location of lines, crossings and crossing protection, safety of train operation, operating rules, investigation of accidents, accommodation for traffic and facilities for service, abandonment of operation and uniformity of railway accounting. The