VIA Rail - A Canadian Amtrak

William E. Thoms

VIA RAIL—A CANADIAN AMTRAK?

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VIA — one of those fortunate words that reads the same backwards and upside down, in English or in French — has been appearing on the sides of Canadian passenger trains within the last two years. The blue and gold color scheme is intended to signify the transfer of railroad passenger service to Via Rail Canada, Inc., a Crown corporation. Whether this is a form of nationalization, a cover for the Canadian railways to exit the passenger business, or a northern Amtrak remains to be seen.

I. THE NORTHERN RAILS BEFORE VIA

Railroad service in Canada has traditionally been a middle ground between nationalized and private enterprise. The largest system in the country is the 25,000-mile Canadian National Railways, a government-owned entity formed in 1919 to take over the properties of several insolvent private carriers.[1] The second largest railway is the 16,500 mile Canadian Pacific Railway, a privately-owned corporation and Canada's first transcontinental railroad, completed in 1885.[2] The two companies have dominated Canadian transportation for the last sixty years, competing on end-to-end transcontinental routes as well as operating telegraph lines, hotels, airlines, bus and truck services and even ocean liners. The competition of the private carrier with the public transcontinental railway has been constant and nationwide. Canadians are fond of saying that the CN keeps the CP honest, and the CP keeps the CN efficient.

In contrast to the United States, which has over one hundred separate railroad companies, Canada has always dealt with two transcontinentals plus a few regional carriers. Otherwise, operating conditions are very similar to those in the United States. The same track gauge and type of equipment is used in each country; there is

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1. P. Dorin, The Canadian National Railways' Story 9-11 (1975).
2. P. Dorin, Canadian Pacific Railway 13 (1974).

interchange of equipment between the two nations; and railroad employees in the United States and Canada belong to the same unions.

The Canadian railroads have competed both in freight and in passenger service. Like their American counterparts, they were required to maintain certain unprofitable services in the public interest, and were rquired to seek regulatory approval from the Canadian Transport Commission before dropping any trains.[3] As in the United States, passenger train service has been historically less profitable than freight operations, and there has been a considerable cutback in passenger service in the last ten years.[4]

Canadian passenger trains, as well as mixed trains, have survived longer than their American counterparts because much of the territory served by these trains is lightly developed, without parallelling highways. There are many Canadian communities inaccessible by road which are only served by train, snowmobile or bush plane. Severe winters often make other modes unreliable, which means trains are needed for standby travel. Thus, a larger percentage of the Canadian rail network is open to passenger travel than is available south of the 49th parallel.[5]

As of 1977, the following carriers operated passenger trains in Canada:[6]

Carrier	Provinces	Ownership
Canadian National	All except Prince Edward Island	Federal Government
Canadian Pacific	All except Nfld., P.E.I. N. S.	Private
Dominion Atlantic	Nova Scotia	Canadian Pacific
Esquimault and Nanaimo	British Columbia	Canadian Pacific
Toronto, Hamilton and Buffalo	Ontario	CP-Conrail
Govt. of Ontario Transit	Ontaio	Province of Ontario
Ontario Northland	Ontario	Province of Ontario
Algoma Central	Ontario	Private
British Columbia	British Columbia	Province of B.C.
Greater Winnipeg Water Dist.	Manitoba	City of Winnipeg
Northern Alberta	Alberta	CN-CP
Quebec, North Shore and Labrador	Quebec, Newfoundland	Private
Grand Falls Central	Newfoundland	Private
White Pass and Yukon	British Columbia, Yukon Terr.	Private
Conrail	Ontario	U. S.
Amtrak	Quebec, Ontario, B.C.	U. S.
Canada and Gulf Terminal	Quebec	Canadian National

3. McLaren, *The Passenger Train Nationalization Process*, 10 W. ONTARIO L. REV. 110 (1971).
4. P. DORIN, THE CANADIAN NATIONAL RAILWAYS' STORY at 25.
5. W. THOMS, TRAVELERS AND TONNAGE 42 (1975).
6. OFFICIAL RALWAY GUIDE (passenger traveled). (Nov. 1977).

Intercity passenger service has been dominated by the two transcontinental railways, and it is their service that Via Rail is designed to replace.

II. THE NATIONAL TRANSPORTATION ACT OF 1967

The Canadian Transportation Commission was created as an amalgam of several pre-existing agencies by the National Transportation Act, signed into law by the Governor-General of Canada on February 9, 1967.[7] The law provides for a procedure for subsidizing money-losing passenger runs, but requires the railroad to first seek discontinuance of the service. If the CTC finds that the service is required, it can order continuation of the train, with a subsidy from the general treasury.[8]

Prior to institution of the VIA scheme, a Canadian railroad desiring to discontinue a passenger train must have placed a notice to that effect, along with a statement of the cost and revenues attributable to that service. The Railway Transport Committee of the CTC then conducted an investigation to determine the true costs of the service. If the Commission found an actual loss, it could order hearings at which all protestants might be heard, but if it found that there was no actual loss, the action would be dismissed.

In determining whether an uneconomic service should be discontinued, the Commission shall consider the following statutory criteria and other matters which are relevant to the public interest:

(1) actual loss
(2) alternative transportation available
(3) effect on other passenger carriers
(4) probable future transportation needs of the area

If the Commission feels that a service should be discontinued, it shall order discontinuance at any time from 30 days to one year after the date of the order. If the Commission determines that the operation of such a train is required, the Commission shall so order, and thereafter may review the discontinuance at intervals not exceeding five years from the date of the original application or from the last consideration thereof.[9]

When an uneconomic train is being operated by a railway pursuant to an order of the Commission, the carrier may file a claim for reimbursement and be paid up to 80 percent of the loss as cer-

7. National Transportation Act, Can. Stat. 1966-67 Ch. 69.
8. W. THOMS, REPRIEVE FOR THE IRON HORSE 30-32 (1973).
9. National Transportation Act, Can. Stat. 1966-67 Ch. 69 § 314 I.

tified by the Commission. These provisions apply only to intercity service, and are not applicable to commuter trains.[10]

Experience under the Canadian Act has shown that the Commission has required the continuation of one daily transcontinental train on the Canadian National and the Canadian Pacific as well as socially necessary daily or tri-weekly branchline trains in backwoods areas where alternate transportation is nonexistent. Service in Ontario and Quebec has been expanded, so that schedule frequency is excelled in North America only by the U. S. Northeast Corridor.

The National Transportation Act is a product of two conflicting policies concerning railroad passenger transportation. The origin of the act is found in the report of the McPherson Commission of 1961-62.[11] That Royal Commission favored a gradual deregulation of surface transportation in Canada and the substitution of a policy of intermodal competition. The McPherson report recommended a gradual phaseout of uneconomic passenger train service, with a transitional period over which the railways could discontinue these uneconomic services by application to a regulatory agency. The subsidies for economic services were viewed as merely retarding a rationalization process which might be so abrupt as to cause economic maladjustments. At the end of this period, passenger trains would operate at a profit or not at all.[12] When the Act emerged from Parliament, however, there was a slight change in emphasis, inasmuch as the objectives of the Act are to "protect the interests of the users of transportation and to maintain the economic well-being and growth of Canada."[13] Although the Act favors the principle of competition, it goes on to say that "each mode of transport, so far as practicable, receives compensation for the resources, facilities and services that it is required to provide as an imposed public duty."[14] Furthermore, although the Railway Transport Committee of the Canadian Transport Commission is set up to protect the public interest and save essential rail services, by recourse to subsidy if necessary, the regulatory techniques to be used in discontinuing passenger services are taken entirely from the McPherson reports,[15] which envisioned such steps

10. *Id.* § 314 J.

11. ROYAL COMM'N ON TRANSP., QUEEN'S PRINTER, *Ottawa*, vol. I (March 1961), vol. II (Dec. 1961), vol. III (July 1962).

12. *McLaren*, *supra* note 3, at 110.

13. National Transportation Act, Can. Stat. 1966-67 Ch. 69 § 1.

14. *Id.* § 1 (c).

15. *Supra* note 11, vol. I, at 26-27.

as merely transitory to the orderly decline of the Canadian passenger train. Thus, two diametrically opposed policies are interplayed.[16]

A Canadian railway wishing to discontinue an uneconomic train must utilize the discontinuance provisions of the Act only if the train in question has been declared to be a "passenger train service" within the meaning of Section 314 I (1) (b) of the Act. Trains not so listed, usually mixed trains or predominantly mail trains which were not principally passenger carriers, could be discontinued without any public procedure. The "passenger train services" were listed by the Commission in September, 1969.[17]

A "passenger train service" may consist of a single train or a group of trains between two common points. There are two different procedures for handling such cases. If a carrier wishes to reduce (or increase) the number of trains within a "passenger train service" it utilizes a "preliminary level of discontinuance" procedure, by applying to a subcommittee of the Railway Transport Committee known as the Rail Rationalization Committee. This Committee is not bound to follow the procedures and standards of the Act, but as a matter of course does so. This committee does not hold hearings, and has been accused by some critics of being too partial to the railroads' point of view. If the committee finds that the reduction of service will still permit the carrier to meet minimum standards for accommodations of passengers as required in Section 315 of the National Transportation Act, such reduction will be allowed.[18]

If a "passenger train service" is to be discontinued in its entirety, a hearing procedure is provided, considering the public interest and national objectives as well as the profit and loss statement, after which either discontinuance or a subsidy was allowed.[19] No subsidy was ever allowed for Amtrak trains or for United States railroads operating into Canada, nor for the portions of Canadian passenger runs passing through sections of the United States.[20]

The National Transportation Act maintained an extensive passenger train system in Canada for ten years. The limitation of

16. *McLaren, supra* note 3, at 111.
17. 59 J.O.R.R. 681 (1969) *(Order No. R-C751).*
18. *McLaren, supra* note 3, at 113-14.
19. *Id.* at 114-15.
20. W. THOMS, *Supra* note 8. The last Canadian National train through the United States, a Winnipeg-Thunder Bay run through Northern Minnesota, was discontinued in July of 1977 without approval of any U. S. regulatory agency. Canadian Pacific still operates the *Atlantic Limited* through the state of Maine, which VIA Rail is in the process of taking over.

subsidy to 80 percent encouraged economies and gave an incentive to the participating railroad to try and make the service pay which would not be present under a cost-plus arrangement. However, the requirement of case-by-case adjudication meant that the railroads had to petition to discontinue a train in order to obtain a subsidy. This not only had a discouraging effect on potential passengers, but allowed the railroads to attempt some downgrading and manipulation of service standards similar to that which occurred in the United States under Section 13a of the Interstate Commerce Act.[21] In addition, the passenger train bill to the government had climbed its way to $200,000,000 a year and was on its way to $400,000,000 by 1980 — a deficit approximately half that of the Amtrak system, yet one that must be supported by the tax dollars of a population one-tenth that of the United States.[22] Regulation and subsidy were saving neither the trains nor the public purse, and Canadian government leaders felt a new approach was in order.

III. THE EMERGING BLUE AND GOLD

By the mid-1970's, Canada's rail transport system was an anomaly. Other nations had converted their rail networks to public ownership. The United States Congress had passed the Rail Passenger Service Act of 1970,[23] which had established the National Railroad Passenger Corporation — Amtrak. Amtrak is not a public entity, but a private corporation owned by four participating railroads — but it has continued to exist by virtue of Congressional funding and government support. In contrast to this, Canada persisted in its competition between the public and private sector. The privately-owned Canadian Pacific was decidedly unhappy about continuing to foot the passenger burden, and was taking steps to reduce its passenger deficit by replacing conventional trains with rail diesel cars, and discontinuing secondary and branchline runs, as well as some intercity service.[24] Even the publicly-owned Canadian National was chafing under its mandate to provide essential passenger services. Its experiments with innovative fare pricing policies had not stemmed the rising tide of red ink, and by 1975 the CN was in the process of studying the best way to use its passenger fleet effectively.[25] Among the options con-

21. 49 U.S.C. § 13a (1958). *See supra* note 8, at 12-26.
22. Wallington, *VIA off to Slow Start*, 10 PASSENGER TRAIN J., No. 3 at 6-7 (May, 1978).
23. Pub. L. No. 91-518, 84 Stat. 1328. (Codified at 45 U.S.C. 501 (1970)). *See* Harbeson, *The Rail Passenger Service Act of 1970*, 38 ICC PRAC. J. 330 (1971).
24. P. DORIN, CANADIAN PACIFIC RAILWAY at 66-69.
25. P. DORIN, THE CANADIAN NATIONAL RAILWAYS' STORY at 31.

sidered were eliminating transcontinental service in favor of day trains, concentrations of service in the Quebec-Windsor-Sarnia corridor, integrating rail with bus services, or coordination of traffic with the hitherto competing Canadian Pacific.

On January 29, 1976, the Ministry of Transport in Ottawa issued a statement on the future of rail passenger service in Canada, and forwarded guidelines to the CTC for use in reviewing existing services. Rail passenger losses in 1974 were $167 million, and it was feared that they would reach $400 million by 1980 unless changes were made. Twenty percent of all passenger services, consisting mostly of mixed trains, carried less than 10 passengers, while 55 percent of the trains carried less than a busload (45 passengers). Thirty-five percent of Canadian passenger trains carry more than one hundred passengers.[26]

The CTC was to take early action on approving discontinuances on local and regional runs where no public need for continuation existed. A plan for rationalization of transcontinental passenger service was released at the end of 1976.[27] The entire rationalization planning was scheduled to be completed at the end of 1978.

At the issuance of the report by Transport Minister Otto Lang, there was no specific mention of the establishment of a separate corporation to run the trains. However, if the railways were unable to come up with their own coordination, a separate operating entity like Amtrak was a good possibility. A prime target for cuts seemed to be the Montreal-Toronto-Vancouver transcontinental service, where parallel trains operate coast to coast through Winnipeg on each railway. But until October, 1978, no such consolidation was made.

In the spring of 1976, Canadian National Railways jumped the gun with a new design, incorporating the VIA name and blue and gold color scheme on its equipment. At the time, neither the VIA organization nor any government funding had been established. The VIA concept was essentially a new image produced by Garth Campbell, CN's manager of passenger services. Campbell was attempting to stay the fall of the Ministry of Transport's axe and was openly skeptical of the Ministry's good faith efforts in rationalization. "The only way passenger trains can make a profit would be under strictly comparable rules which recover from the users of all modes the economic costs each incurs .

26. 8 PASSENGER TRAIN J. No. 4 at 25 (April-May 1976).
27. *Id.*

. . . The mere act of setting up yet another government department is no guarantee of good service, nor even of effective control," Campbell stated in a Winnipeg speech.[28]

In October, 1976, the first joint timetable was issued by Canadian National and Canadian Pacific. The latter railroad also announced it was adopting the VIA logo for its equipment, with an eye to coordinating service, a necessary first step before a government-sponsored revitalization of that service could occur.[29] Via Rail Canada, Inc., was incorporated in January, 1977, under the Business Corporation Act and approved by the Parliament of Canada in March, 1977.[30] Originally, VIA was a subsidary of the Canadian National and was charged only with the planning and marketing of services. Equipment, stations and employees would continue to be provided by CN and CP. VIA was to collect all the revenues and would pay the carriers 100 percent of the costs incurred in providing the service, as opposed to 80 percent under the National Transportation Act.

VIA found it difficult, however, to conduct negotiations with a railroad of which it was a subsidary. In order to maximize the efficiency of VIA and make it more even-handed in its dealings with both the CN and CP, it was made a Crown Corporation on April 1, 1978.[31] It operates basically as a private corporation, but it is subsidized by the Federal government and must submit an annual report and request for funding to the Candian government. The

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28. *Id.*

29. OFFICIAL RAILWAY GUIDE at 5 (passenger ed.) (Oct. 1976).

30. 9 PASSENGER TRAIN J., No. 3 at 26 (March, 1977).

31. Section 52d of Appropriation Act No. 1, 1977, Can. Stat. 1976-77 Ch. 7, reads as follows: Surface Transportation — With Respect to Surface Transportation.

(a) to deem VIA Rail Canada Inc., a railway company incorporated pursuant to Section II of the Railway Act,

(b) to authorize, subject to the approval of the Minister, VIA Rail Canada Inc. and any railway company to enter into contracts for the purpose of providing a unified management and control of rail passenger services in Canada; and

(c) to authorize the Minister subject to such terms and conditions as the Governor in Council may prescribe by regulations

(i) to enter into a contract with VIA Rail Canada Inc. with respect to

(a) the provisions, management, or the operation of selected rail passenger services in such a manner as to improve efficiency, effectiveness and economy in rail passenger services in Canada;

(b) the reimbursement of the net cost to the corporation of operating a rail passenger service in accordance with the provisions of the contract;

(c) incentive payments for the efficient operation of the rail passenger services in accordance with the provisions of the contract;

(ii) to reimburse, out of monies to be appropriated by Parliament, a railway company for the prescribed portion of the cost incurred by the company for the provision of income maintenance benefits, layoff benefits, relocation expenses, early retirement benefits, severance benefits and other benefits to its employees where such costs are incurred as a result of the implementation of the provisions of the contract or discontinuance of a rail passenger service provided that the aggregate of the amounts payable annually pursuant to this authority for the purposes set out in Clauses (b) and (c) does not exceed $240,000,000.

new corporation now has the powers of a railway company and is regulated by the CTC. The company was not to be responsible for any rail service until the CTC completed its rationalization process for that particular service. Then, the government would enter into a contract with VIA for that particular route. VIA would in turn contract with CN or CP to provide locomotives and crews. VIA was to acquire CN and CP intercity equipment, after selecting the best of the aged fleet for its purposes.[32]

Like Amtrak, VIA is set up as an independent, ostensibly for profit corporation dedicated to providing improved intercity passenger service by rail. Neither country is yet ready to declare outright nationalization of their railroads, or even of their passenger function. VIA is owned, however, as is Canadian National, by the Crown, whereas Amtrak is legally the property of four cooperating railroads.[33] Also similar to Amtrak's legislation is the limiting of VIA's service to intercity passenger trains. VIA will not run commuter or urban transfer routes. Such commuter service as now exists will continue to be operated by CP (around Montreal) and CN (around Montreal and the GO Transit service through Toronto).

Today, VIA's role in the operation of Canadian passenger trains is that of a contractor. CN and CP retain ownership of the tracks and are responsible for dispatchers and train crews. VIA has responsibility for the sleeping car conductors, porters and food service employees on board trains.

The main thrust of VIA is to reduce the deficit of rail passenger operations in Canada. While VIA is labeled a "for-profit" corporation, it is in reality not expected to be a money-making venture. It has, however, slowed down the increase in losses. As stated earlier, total losses in 1976 were $260 million with projected losses in 1980 of $400 million and in 1982 of $500 million without a restructuring.

VIA may have smaller losses, but it is operating fewer trains. On March 21, 1977, the CTC announced a number of proposed passenger service cuts. Canadian Pacific and Candian National both were allowed to drop several local rail diesel cars which served light volume lines. Included was CN's last passenger train through Minnesota—a Thunder Bay-Winnipeg tri-weekly run, and CP's last service to Sault Ste. Marie, Ontario.[34] The rationalization

32. 9 PASSENGER TRAIN J., No. 4 at 27 (April, 1977).

33. They are the Burlington Northern, Conrail, Milwaukee Road and Grand Trunk Western. *See* W. THOMS, REPRIEVE FOR THE IRON HORSE at 52.

34. *Id.* at 32.

process is to continue until the CTC decides on a minimal number of trains to be included in the VIA system by the end of 1978.

The rationalization and emergence of VIA was the end product of a CTC study on the implication of Amtrak for Canada. One of the implications was that by 1978, the U. S. would have a better rail passenger system than that of Canada.

> Furthermore, if Amtrak's estimate of its FY1978 deficit is at all accurate and, if Canada's passenger train subsidies continue to increase at about the same rate as they have in the past, it is likely that Canada will be paying more for its 80 percent subsidy program than the United States will be paying for Amtrak.
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> Another implication has to do with the roadbed problem. Are passenger and freight systems just as incompatible in Canada as they apparently are in the United States? Not enough is known to provide a definitive answer to this question. A great deal of additional research needs to be done to reveal the system-wide effects of "efficient" 250 car freight trains.
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> Finally, the findings and conclusions of this study do *not* seem to indicate that Amtrak, in its present form, is an appropriate model for Canada. Amtrak was, and is, a pragmatic compromise developed within the larger United States context of bankrupt railroads owned by successful holding companies. Canada, with a program of 80 percent subsidy and a Crown Corporation in railroading, has an institutional context quite different from the United States— and perhaps even more complex. Certainly, further study of institutional arrangements for providing future rail passenger service in Canada is required.[35]

IV. THE TRANSITION TO VIA

All Fool's Day, 1978, brought VIA into the rail business directly. Up until that date, the corporation had been proceeding on a step-by-step, route-by-route basis. But observers felt that basis was too complicated and inefficient. Thus, April 1, 1978, was set for VIA's takeover of every CN or CP train not rationalized out of existence by that time.[36]

35. P. DAWES & E. JOHNSON, A STUDY OF AMTRAK'S EFFECTIVENESS 168-69 (1974).
36. 9 PASSENGER TRAIN J. No. 9 at 28 (Oct. 1977).

Although the abrupt takeover was compared to Amtrak's nascence on May 1, 1971, VIA had several advantages which the American carrier did not have. It was to start operations with a full staff; CN and CP had been marketing their services for over a year under the VIA logo, and it had to coordinate only two railroads rather than Amtrak's fourteen. However, the Corporation could not decide which services it could keep and which it could drop — those decisions were made at the Federal level. And although CN services were transferred to VIA, further negotiations were required and CP kept separate operations of its trains until late 1978.

The CTC's major effort in planning for VIA had taken place in October, 1977, when the Commission released its Final Plan for the rationalization of transcontinental service. The CTC envisioned one Montreal/Toronto-Vancouver daily train, operating generally over the route of the CP, with daily Winnipeg-Vancouver service over CN via Edmonton in addition to the through train. A tri-weekly Sudbury-Winnipeg local over CN was also proposed.[37] Over a year passed before these changes were implemented. On October 29, 1978, a combined service was instigated with a Montreal-Winnipeg-Edmonton-Vancouver train (over CN) and a Toronto-Winnipeg-Calgary-Vancouver train (over CP). The two trains exchange passengers at Winnipeg. Reimbursement to CN and CP is worked out in multiple contract provisions, on a per train-mile basis.[38] Contracts must be approved by the Treasury Board, and thus are entered into between VIA and the Ministry of Transport. The contract may provide for financial incentive provisions. An appropriation of $493,648,110 was provided for start up costs and the first year's operations.[39]

Now that equipment purchases have been settled with CN and CP, VIA owns every train it operates. Maintenance of trains is contracted out to railroad shops. Although the corporation is get-

37. 9 PASSENGER TRAIN J., No. 10 at 28 (Nov. 1977).

38. *See generally* Railroad Passenger Service Contract Regulations. 112 Can. Gaz. Part II No. 7.

39. 2. From and out of the Consolidated Revenue Fund, there may be paid and applied a sum not exceeding in the whole four hundred and ninety-three million, six hundred and forty-eight thousand one hundred and ten dollars towards defraying the several charges and expenses of the public service, from the 1st day of April, 1976, to the 31st day of March, 1977, not otherwise provided for and being the total of the amounts of the items set forth in the Supplementary Estimates (D) for the fiscal year ending the 31st day of March, 1977, not otherwise provided for and being the total of the amounts of the items set forth in the Supplementary Estimates (D) for the fiscal year ending the 31st day of March, 1977, as contained in the Schedule to this Act. . . . . $493,648,110.
Appropriation Act No. 1. 1977, Can. Stat. 1976-77 Ch. 7. §2.

ting by with used equipment from CN and CP, it is acquiring by 1980 a fleet of LRC trains. These electrically heated, pendulum-suspended trains have been tested on CN and CP and were purchased by the Ministry of Transport in November, 1977.[40] They have in addition to their engineering virtues, two political advantages — they are built in Canada and their initials (Light, Rapid and Comfortable) are the same in English as in French. In addition, VIA is upgrading its fleet of 96 rail diesel cars used for local and branchline trains. So far no decision has been made about re-equipping the transcontinental trains which serve Winnipeg and the prairie provinces.

VIA is organized into four regions: Atlantic, Quebec, Ontario and West. It has acquired approximately 2800 unionized employees and 500 non-scheduled management and professional employees.[41] Approximately 2300 employees are transferring from CN and another 500 from CP.

Labor negotiations between the parties were governed from the outset by Federal government legislation enacted in October 1977. The parties were unable to agree, and a special mediator was called in to help the parties reach a settlement, with one issue — separation from service — submitted to binding arbitration. As a result, the unionized employees did not come under the VIA plan until July of 1978.

April 1, 1978, meant that CN and CP began to send the bills for their passenger service to VIA; 100 percent for the "rationalized" trains and 80 percent for the trains yet to be rationalized, which is most of the system. Ministry of Transport officials were expected to keep a close check on the fledgling carrier's finances since the Ministry is VIA's banker. The relationship of the Ministry to its creature, VIA, is very much like that between the government and Air Canada, also a Crown corporation. The government does not run the corporation; it arranges that the corporation is well run. A Ministry spokesman described the role of the government as giving the general direction, providing management and verifying that management is working in the direction outlined. The corporation should handle the specifics.[42] The first combined tariff was filed for VIA trains, effective June 15, 1978.[43] (Unlike Amtrak, the corporation must have CTC approval of rates and fares).

40. 9 PASSENGER TRAIN J., No. 10 at 28 (Nov. 1977).
41. Interview with representatives of VIA West, Winnipeg (Oct. 1978).
42. 10 PASSENGER TRAIN J., No. 3 at 7 (May, 1978).
43. 10 PASSENGER TRAIN J., No. 4 at 335 (June, 1978).

As of this writing, six months of VIA operation have been full of the false starts that one has come to associate with Amtrak. Much of this can be traced to a change in emphasis from a slow takeover to a quick start-up philosophy, plus the difficulty of reconciling two naturally competitive and antagonistic railway systems.

V. VIA VS. AMTRAK

Garth Campbell, Vice-president for Marketing for VIA, explained recently in an interview that VIA was "working from strength" as compared to the birth of Amtrak. The Canadian Crown corporation assumes a growing business with good trains and tracks in good repair. The slow takeover will make it easier to manage the company than the quick start of Amtrak. Furthermore, he explained, VIA is realistic — there is no "for profit" criterion in its articles of incorporation. To this, David P. Morgan, editor of *Trains* magazine, replied:

> Perhaps. But those inexorable economics show no respect for national boundaries. Or to quote Canadian National President Robert A. Bandeen, "Passenger services cannot be provided on a profit-making basis under North American conditions." To which, we think, VIA's Campbell would add, *any* passenger service: rail, road, or air. The trains' losses are visible, he argues, while the deficits of the competition are hidden in publicly provided airways and roadways.
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> Be that as it may, the VIA system is going to cost 23 million Canadians more than the Amtrak network costs 216 million Americans:

	VIA	ATK
Route-Miles	14,000	26,000
Passengers (millions)	7	19.2
Revenues (millions)	$120	$311.2
Loss (millions)	$300	$536.6

> The assumption is that Parliament will be more benign about these statistics than is Congress. However thinly populated, Canada's land mass is larger than that of the U. S., thus eight times as many passenger route-miles per capita may be justified. Item: There's no U. S. equivalent for CN's line up to Hudson Bay, with a terminus at Longitude 94 and Latitude 59 (on a parallel with Juneau, Alas.), and in consequence no Amtrak counterpart for the triweekly passenger train that goes there.

> Americans will be watching. Americans who think that a lot of other countries field better trains than theirs will be looking to see if they can add VIA to their list of JNR [Japanese National Railways] and SB [Schweitzerisches Bundesbahnen — Swiss Federal Railways] and SNCF [Societ Nationale de Chemins de Fer Francaise — French National Railways]. They will be comparing VIA's replacement of its 25-year-old equipment with their own Amfleet/Superliner changeout. They will be observing whether SDP40F misadventures are avoided, and whether train, bus, and plane can create an intermodal common carriage attractive to the Canadian automobile driver who, like the American, uses his car for almost 90 percent of all of his intercity journeys.[44]

It seems that there are certain similarities between Amtrak and VIA which show a basic affinity in the statutory schemes. Both are independent corporations with government guidance. Both are nationwide in scope and intend to effect savings by combing formerly separate systems. Both involve marketing schemes to increase patronage and reduce deficits, and both replace railroad-operated passenger services which the railroads involved wanted to dump. Both are concerned only with intercity, rather than commuter, services.

VIA has certain advantages which the American passenger railroad has not: it is operating equipment which, though old in years, has been well maintained and modernized, while Amtrak's original equipment has not. The passenger system Amtrak took over was one in total decay; most trains came from the bankrupt Penn Central Railroad.[45] The track over which VIA trains must operate is in top working condition compared to Amtrak's, which in most cases has not been upgraded in years and is in a condition to handle only slow freights safely. VIA's service involves only two railroad companies, instead of the score of railroads that now more or less cooperate with Amtrak. The company does not have the scheduling and routing problems which Amtrak faces — its routes are assigned to it by the CTC and it does not have the power to discontinue or change routes at will. Canada's large cities are fewer than the U. S. and are already located on principal rail lines, so there is less confusion in route selection than in the United States,

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44. Morgan, *On the verge of VIA*, TRAINS at 28-29 (Aug. 1978).
45. Morgan, *1972: Business as Usual*, TRAINS, at 4 (Feb. 1973).

where a route chosen through Pittsburgh may deprive Cleveland of through passenger train service.[46] All major Canadian cities will be served by the VIA system.

The political considerations surrounding the systems' creation are somewhat different: VIA was created to reduce the losses that accompanied CN and CP rail passenger service, while Amtrak was created to save the rail passenger service from extinction in the United States — its motivation was the bankruptcy of the Penn Central corporation and the carrier's request to the ICC to discontinue most of its remaining intercity passenger trains.[47]

One of the principal disadvantages that VIA has as opposed to Amtrak is the Canadian company's lack of freedom to change fares and schedules. As a railroad, it is subject to the authority of the Canadian Transport Commission as far as fare changes or discontinuances are concerned. Amtrak, however, is a deregulator's dream — responsible neither to the Interstate Commerce Commission nor state regulatory agencies — only to Congress.[48] The railroads in the United States were allowed to choose between signing contracts with Amtrak or continuing passenger rail service on their own. Canadian railways have no such choice, and are not being offered the chance to own stock in VIA. Of course, the four participating railroads have written down their Amtrak stock to a $1 book value, so this missed opportunity may be no great loss.

Presently, VIA is working to revitalize on-board services such as sleeping and dining car accommodations, marketing, ticketing, and scheduling in order to draw more passengers. It is heavily involved in the tour business and is relying on special incentive contracts with the railroads to provide good service. Certainly, savings will be realized by elimination of duplicate services and some redundant branch lines. An area of savings potential can be the consolidation of terminals. Until October, 1978, Winnipeg maintained a huge CP depot for one train daily, and an equally large CN station down Main Street for the remaining trains. In addition, the St. Boniface and St. James suburban stations are used only on weekends for excursion trains. A similar situation prevails in Montreal, which has two large terminals and several suburban stations. Vancouver hosts both a CN and CP terminal, as well as a British Columbia Railway station in North Vancouver, even though the latter two see only one regularly scheduled departure

46. Morgan, *The Riddle of Railpax*, TRAINS, at 3 (June 1971).

47. Penn Central Transp. Co. — Discontinuance of 34 Passenger Trains, ICC Finance Docket No. 26106, 338 I.C.C. 380, (1970).

48. Rail Passenger Service Act, 84 Stat. 1336, 45 U.S.C. 564 (a) (1970). *See* Thoms, *The Return of Section 13a*, TRAINS at 12-13 (Jan. 1976).

daily. There are three stations in the Quebec area and in greater Edmonton. Even smaller cities like Brandon, Manitoba; Sudbury, Ontario; and Prince George, B. C., have two separate stations.

In addition to the rail terminals, in most large Canadian cities there is a separate station for intercity buses. This aggravates costs to the carriers and makes it difficult for through passengers to change vehicles. Since the Ministry of Transport has advocated the use of buses to replace branchline trains with light passenger loads, VIA should move aggressively toward through ticketing with buses and establishment of joint terminals with through ticketing and through checking of baggage. True intermodal terminals have existed for decades in Europe and the idea is beginning to be explored in the United States. The situation in Canada apparently developed from the unwillingness of the railways (regulated by the CTC) and the motor carriers (regulated by the individual provinces) to short-haul themselves. A more sensible approach to surface transportation would regard the two modes as complementary, competing with the private autombile rather than with each other. Such intermodal terminals could also interface with urban transit, taxicabs, and airport buses and limousines, increasing the convenience to the consumer and making public transportation more attractive.

Finally, consideration should be given to improving connectivity with Amtrak. Presently, the two carriers sell tickets for each other, but otherwise face across the world's longest unguarded frontier with quiet indifference. There is no direct rail connection between Amtrak in Buffalo and VIA in Niagara Falls; between Amtrak in Detoit and VIA in Windsor; between Amtrak in Port Huron and VIA in Sarnia; or between Amtrak in Grand Forks and VIA in Winnipeg. It is presently easier to travel by train between Northern and Southern Ireland or between East and West Germany than between the United States and Canada.

VIA has the benefit of observing seven years of United States experience with Amtrak. It is hoped that our Canadian neighbors may profit from our mistakes in establishing a viable national passenger rail network adapted to our times.