CHAPTER 7

CONCLUSIONS

Throughout the hearings the Committee was impressed by the fact that all the parties it heard, including CN, wanted to see rail service maintained on the Truro-Sydney line. As noted previously, on 18 February 1992, the Committee expressed the unanimous opinion that common carrier rail freight service between Sydney and Truro must be maintained as long as there is a demand. How can this be achieved? In this regard a number of concerns were raised by the witnesses. These included:

CN's fear that it cannot maintain a profitable service and will eventually have to apply to abandon the line;

The Government of Nova Scotia's belief's that CN has a responsibility to maintain rail service on this line, which should not be sold unless the Government of Canada can provide some sort of guarantee that service will be maintained;

The shippers' concern that they will lose rail services through CN's eventual abandonment of the line;

The shippers' uncertainty about the type of service and rates that would result if the line were sold to a shortline operator;

The fact that, according to Peat Marwick, traffic is declining on the line, which puts the line's long-term viability in question, no matter who operates it in the future; and

The fact that no safeguards have been suggested that can guarantee the future operation of the line, whether it remains in CN's hands or is sold to a shortline operator.

As noted earlier, the issue of labour is of paramount concern to the bidders for the Truro-Sydney line. In this regard, they have stated that they would wish to incorporate provincially so as not to be subject to the provisions of the *Canada Labour Code*. However, it would appear that the fact that a railway company has incorporated provincially in order to acquire and operate a shortline railway wholly situated within a province does not necessarily mean that the shortline is subject to provincial rather than federal jurisdiction over labour relations. In this respect, the Supreme Court of Canada judgment in the case of *United Transportation Union* v. *Central Western Railway Corp.* ([1990] 3 S.C.R.1112) is relevant. That case involved a provincially incorporated railway company, the Central Western Railway Company, which acquired from CN and now operates a 105-mile railway line wholly situated within the Province of Alberta. When first notified by CN of the proposed lease (which became a sale), the relevant unions, which had a national collective agreement with CN, filed an application with the Canada Labour Relations Board for an order that there had been a sale of the rail line governed by the *Canada Labour Code* (R.S.C. 1985, c. L-2, as amended). The effect of a successful application would be to