

long delays such a procedure entails. The Committee notes with regret that more than two years have passed since VIA first put forward its request for costing data until March of this year when it reformulated its application in a manner presumably more in keeping with the legal requirements as perceived by the CTC. The results of this latest effort to obtain relevant costing information from the CTC remain to be seen.

The Committee feels that the access to this type of information, although not necessarily all the information sought by VIA is essential for its administrators to assess properly what are substantially unitemized statements of account that are not subject to a management audit and that amount to the major proportion of its annual operating budget. The Committee is aware of the operating railways' reluctance to making certain elements of component costing data available, but it does not favour a general refusal to provide this type of information and hopes that in the future a more cooperative, reasonable and sensitive attitude will prevail. It notes with satisfaction that such a change in attitude has become somewhat evident in recent months, especially on the part of CN Rail.

To a certain extent, this controversy arises out of an interpretation of a section of the *Railway Act*, which is the determining statute with regard to railway operations, passenger and otherwise, in this country. In the absence of an express and comprehensive statutory basis for railway passenger services, legislative regulation will, by default, fall to an Act that does not necessarily reflect nor respond to the current state of affairs in the passenger rail area. This is especially true of the procedures open to VIA to obtain necessary management information. Under the current system, an adversarial and litigious process is involved in Canada's rail passenger carrier attempts to obtain vital data. The Committee feels that the current system is therefore not adequate.

(iv) The Need for Legislation

VIA Rail Canada Inc. has had an inauspicious legislative beginning. It was incorporated pursuant to the *Canada Business Corporations Act* (S.C. 1974-75, c. 33 as amended) on 12 January 1977, and was thereafter acquired by the Canadian National Railway Company as a non-comprised subsidiary. In 1977, the entity was deemed to be a railway company pursuant to a \$1 Appropriation Act vote.⁽¹⁾ This provision allowed for VIA Rail Canada Inc. to enter into contracts with the other railway companies, subject to the approval of the Minister of Transport, in order to provide passenger rail service. The Minister of Transport was given authority to prescribe regulations concerning the conclusion of contracts with VIA Rail Canada Inc. for the provision of rail passenger services so as to "improve efficiency, effectiveness and economy in rail passenger services in Canada". Then on 1 April 1978, VIA became a Crown Corporation by Order in Council.⁽²⁾

The Committee notes with regret this use of an Appropriation Act vote to implement an important policy decision. The creation of a national passenger rail company should have had a proper and complete legislative basis. The Committee heard persuasive evidence as to the important positive effects a sound statutory foundation has had on the Amtrak system in

⁽¹⁾ *Appropriation Act No. 1, Vote 52nd, (S.C. 1976-77, c. 7).*

⁽²⁾ P.C. 1978-954, 23 March 1978.