

ABSTRACT

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Parliamentary Committees and Policy Formulation: A Case Study of the Role of the House of Commons Standing Committee on Finance, Trade and Economic Affairs in the Process of Tax Reform in Canada.

The process of tax reform in Canada between 1962 and 1971 was characterized by unprecedented public discussion before the introduction of legislative proposals by the Minister of Finance. The House of Commons Standing Committee on Finance, Trade and Economic Affairs served to channel much of the latter part of the debate and then produced recommendations, many of which were accepted by the Government. The purpose of this thesis is to examine the work of the Finance Committee in its study of tax reform in order to reach some conclusions as to the role of Standing Committees of the House of Commons in policy formulation. The thesis also attempts to examine the function of White Papers in promoting public participation in policy-making.

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of the Role of the House of Commons Standing Committee on
Finance, Trade and Economic Affairs in the Process of Tax
Reform in Canada.

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CONTENTS

	<u>Page</u>
INTRODUCTION	1
I. THE ROLE OF STANDING COMMITTEES IN THE CANADIAN HOUSE OF COMMONS	6
II. THE PROCESS OF TAX REFORM IN CANADA	26
A. The Carter Commission	27
B. From the Carter Report to the White Paper	32
C. The White Paper	40
1. Burden and Ability to Pay	42
2. Neutrality	45
3. Voluntary Compliance	47
4. Federal-Provincial Co-operation	48
D. The Study of the White Paper	49
III. THE FINANCE COMMITTEE: ORGANIZATION AND PROCEDURE.	53
A. General	53
B. Organization	57
C. The Testimony	77
1. Department of Finance	77
2. The Private Sector	86
3. The Provincial Governments	91
4. Final Government Hearings	95
IV. THE COMMITTEE REPORT	99
A. Contents	99
1. Setting and Summary	100
2. The Individual and the Family	100
3. Capital Gains as Income	102
4. Corporations and their Shareholders	104
5. Business and Property Income	107
6. Taxing International Income	109
7. Co-ordination with the Provinces	110
8. Impact on Revenues and the Economy	110

	<u>Page</u>
B. Final Tax Reform Legislation	111
1. Personal Income	114
2. Capital Gains Taxation	115
3. Corporations and their Shareholders	117
4. Business and Property Income	119
5. Foreign Source Income of Canadians	120
C. Reaction	120
V. THE FINANCE COMMITTEE: AN ASSESSMENT AND SOME CONCLUSIONS	127
A. Committee Operations	128
1. Expert Staff	129
2. Public Hearings	133
a. The Public Sector	133
b. The Private Sector	134
3. Role of the Provinces	135
B. Committee Organization	137
1. Committee Chairman	137
2. Time Conflicts Between Committees and the House	140
3. Allocation of Time	140
4. Minority Reports	142
C. A General Overview of Committees and White Papers	144
BIBLIOGRAPHY	149

INTRODUCTION

In his study of The Power of Parliament, Ronald Butt quotes a comment made over one hundred years ago by Salisbury:

Scarcely an evening passes in the House of Commons but somebody moves to refer something to a Select Committee. Our taxation, our colonies, our poor laws, our navy, and half a dozen other things besides have been sent upstairs to feed the appetite of these insatiable inquirers. At last the guardians of the Constitution have become frightened. The Prime Minister actual, and the Prime Minister expectant, and 'The Times' which domineers over both, have sounded the alarm that the House of Commons is invading the Executive...One would imagine from all these timid alarms that there was something very powerful and very terrible in a Select Committee.

...[In fact each member] has his own little mare's nest to look for, and questions each witness about it. The rate of progression therefore will probably be satisfactory to the Departments who will look upon the Committee as a convenient peg on which to hang up¹ any disagreeable question for a year or two.

The guardians of our Constitution have now become frightened that there is too much power in the hands of the Executive and not enough in those of the House of Commons. The emergence of the positive state, the development of a large and expert bureaucracy, the growing complexity of issues with which

¹ Ronald Butt, The Power of Parliament (2nd ed; London: Constable and Company Limited, 1969), p.79.

government must deal, the growth of rigid party discipline and the ensuing dependence of the member on his party for purposes of election, the emergence of a powerful Prime Minister's Office, all have contributed to creating an imbalance between the executive and the legislative branches of government.

It is not as much the need for power to be concentrated to a large extent in the hands of the executive that is being questioned as it is the means by which control and scrutiny can be exercised over the executive. What control, if any, is there over the actions of the Prime Minister's Office, the Cabinet, and the bureaucracy? In an age of strict party discipline, what is the function of the representatives of the people in the House of Commons? How, in an era of "participatory democracy," can the views of the people be transmitted to Government and enacted into legislation?

Ways and means are being sought to achieve some sort of tenuous balance between the exigencies of governing a complex twentieth-century industrial society and the need for democratic control over the actions and priorities of government. Bernard Crick has suggested a framework within which realistic proposals for parliamentary control over the executive might be considered:

The only means of Parliamentary control worth considering, and worth the House spending much of its time on, are those which do not threaten the Parliamentary defeat of a government, but which help to keep it responsive to the underlying currents and the more important drifts of public opinion. All others are purely antiquarian shufflings. It is wholly legitimate for any modern government to do what it needs to guard against Parliamentary defeat;

but it is not legitimate for it to hinder Parliament, particularly the Opposition, from reaching the public ear as effectively as it can. Governments must govern in the expectation that they can serve out their statutory period of office, that they can plan - if they choose - at least that far ahead, but that everything they do may be exposed to the light of day and that everything they say may be challenged in circumstances designed to make criticism as authorized, informed and as public as possible.

...Control means influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiation; and publicity, not secrecy. Here is a very realistic sense of Parliamentary² control which does affect any government.

The instrument most often suggested for providing this type of control is the Committee system of the House of Commons. Speaking during a debate on procedure on March 18, 1965, the Progressive Conservative Member for Peace River, G.W. Baldwin, stated that "to bring the private member of parliament into a position where he can provide an adequate and intelligent means of controlling the executive, the committee system provides the answer. Certainly, Mr. Speaker, the individual member by himself³ cannot hope to do so."

Ronald Butt writes that

The twentieth-century case against Parliament on grounds of inadequacy rests to a considerable extent on the twin premises that the House of Commons is no longer capable of controlling adequately either the Government's administrative machine or public finance and expenditure. The remedy almost uniformly suggested for this insufficiency is an extension of the House of Commons' Committees so

² Bernard Crick, The Reform of Parliament (London: Weidenfeld and Nicolson, 1968), pp.79-80.

³ Canada, House of Commons Debates, March 18, 1965, p.12513. (Mr. Baldwin is now Opposition House Leader in the House of Commons).

that specialising groups of members could concentrate their continuing attention on specific sectors of the bureaucracy and on particular areas of the Government's activity. This suggestion is also frequently presented as if it were the major solution to the larger problem of the House of Commons' alleged decline before the power of the modern Executive over policy.⁴

While effective use of the Committee system has been proposed as a means of controlling the power of the executive, the use of White Papers has been suggested as a tool for eliciting popular participation in governmental decision-making. White Papers and Parliamentary Committees are closely linked as the latter can serve to channel the public debate arising from the former.

Two and a half years after the general election of June 25, 1968, John Roberts, the Liberal member of parliament for York-Simcoe, wrote that while "the Trudeau Government has recognized [the] yearning for participation, it has been less sure of how to transform our political system to provide a real, not illusory, citizen involvement in government decision-making."⁵

Since 1968, Parliamentary Committees have been playing an increasing part in the governmental process in Canada. As well, there has been frequent resort to white papers in order to bring about public participation in the formulation of policy.

By examining the role of one particular committee in the study of a White Paper and in the subsequent elaboration of Government policy in a field of major national importance, this

⁴ Butt, op.cit., p.349.

⁵ The Globe and Mail, November 21, 1970, p.7.

thesis shall attempt to reach certain conclusions as to the function of Parliamentary committees and white papers in policy formulation. The committee to be studied is the House of Commons Standing Committee on Finance, Trade and Economic Affairs, and the subject matter to be dealt with is the White Paper on Tax Reform.

The first chapter is devoted to a general discussion of the role of House of Commons Committees and of white papers; the second describes the process of tax reform in Canada from the appointment of the Royal Commission on Taxation in 1962 to the tabling of the White Paper on Tax Reform in 1969; the third and fourth chapters concern the role of the Standing Committee of the House of Commons on Finance, Trade and Economic Affairs in the study of the White Paper and in the final legislation introduced by the Minister of Finance; the concluding chapter attempts to generalize from the case study to the overall role of committees and of white papers.

At the time of writing, the House of Commons had not yet passed the final tax reform legislation. However, the concern of this thesis is with the influence of the Committee on what was introduced by the Finance Minister; consequently, the fact that the bill has not (August, 1971) been passed does not affect the conclusions of this study.

CHAPTER ONE

THE ROLE OF STANDING COMMITTEES IN THE CANADIAN HOUSE OF COMMONS

In 1962, Norman Ward suggested that "to a casual observer, indeed, the most impressive single point about the proceedings of Canadian parliamentary committees...must be that they result in reports at all."¹ Only eight years later, Thomas Hockin was writing about a "quiet revolution...altering the role and relevance of Standing Committees... to the extent that no longer can the role of the House of Commons be understood without recognition of the growing specialization of the House through its Standing Committees."² This chapter shall look at some of the changes that were made during the 1960's in the function of Standing Committees, at some of the reasons for the changes, and at some of the views expressed with regard to the Committee system of the House of Commons.

Although the choice of any date as a cut-off point is bound to be arbitrary, the procedural reforms in the House of Commons in 1965 are significant enough for that date

¹ Norman Ward, The Public Purse: A Study in Canadian Democracy (Toronto: University of Toronto Press, 1962), p.274.

² Thomas A. Hockin "The Standing Committees of Canada's House of Commons Since 1966," in Orest Kruhlak, Richard Schultz and Sidney Pobihushchy (ed.), The Canadian Political Process (Toronto: Holt, Rinehart and Winston of Canada, Ltd., 1970), pp.383-397.

to be accepted as a proper divider between the old and the new committee system.

The reasons for the generally recognized failure of the pre-1965 Committee system of the Canadian House of Commons are well described by Professors W.F.³Dawson, R.⁴McGregor Dawson, Norman Ward,⁵ and J.R.⁶Mallory. While no lengthy description of the old system is necessary here, it is nonetheless important for an understanding both of the changes made and of the changes proposed to outline briefly what existed and what were its deficiencies.

While the primary concern of this study is with Standing Committees, Special Committees still merit mention. The latter simply were created by the House for a specific purpose and were disbanded once their reports were presented. "They have been widely used in Canada as investigating bodies for non-controversial subjects."⁷ These committees normally had no more than fifteen members. Their powers were limited to what the House would assign to them at their formation.

Standing Committees for special subject areas - Public Accounts, Agriculture and Colonization, Banking and Commerce,

³ W.F.Dawson, Procedure in the Canadian House of Commons (Toronto: University of Toronto Press, 1962).

⁴ R.McGregor Dawson, The Government of Canada, Fourth Edition (revised by Norman Ward, Toronto: University of Toronto Press, 1963). Henceforth referred to as Dawson and Ward.

⁵ Norman Ward, op.cit.

⁶ James R.Mallory, "Uses of Legislative Committees," Canadian Public Administration, Vol.6 (March, 1963).

⁷ Dawson, p.199.

etc. - were appointed at the beginning of each session "for the consideration of all subjects of a particular class arising in the course of the session."⁸ Normally there were about fifteen Standing Committees, the membership of each varying in size from thirty-five to around sixty. Whatever powers these committees possessed were assigned to them anew at the beginning of each session. They were "to examine and inquire into all such matters and things as may be referred to them by the House and to report from time to time their observations and opinions therein, with power to send for persons, papers, and records."⁹ But W.F.Dawson stresses that the power to "send for persons, papers, and records" was usually but not always granted to committees.

¹⁰
"Superficially impressive" is one description that has been applied to the old Standing Committee system. For it is important to remember that they could only work with what was referred to them by the House and, in reality, little of importance was ever studied by Standing Committees. On the infrequent occasions that they did investigate controversial subjects, Professor Dawson assures us that obedient government majorities on the committees operated in such manner that "a politically correct verdict¹¹[would] be reached, and few, if any of the participants¹¹[would] be satisfied that a fair hearing [had] been held."

⁸
Dawson and Ward, p.379.

⁹
Dawson, p.202.

¹⁰
Dawson and Ward, p.380.

¹¹
Dawson, p.207.

Professor Mallory used words such as "antiquated"¹² and "hopelessly out of date"¹³ and continued by saying that "the truth of the matter is that many of the standing committees of the House of Commons now bear little relation to the normal flow of business in the House. History has passed them by and no one¹⁴ has thought of a present use for them."

The indictment of the old Standing Committees rested partly on their large and unwieldy size, on excessively partisan chairmen, and on the lack of qualified staff assistance. Yet while these and similar criticisms are important, they do not reach the heart of the matter for they concern failings which, had the will been present, could have been corrected with little difficulty. The lack of success of the pre-1965 Standing Committee system of the Canadian House of Commons requires a more fundamental explanation.

Since 1867 the theory of parliamentary procedure in Canada (and in Westminster) has, on the whole, been anti-specialist. The essential House of Commons has been thought of as debate on the floor of the whole House, not as the relationship between more specialized committees and the generalized House floor.¹⁵

It is the breakdown of this theory which, according to Hockin, has permitted in recent years the development of a more relevant and more effective committee system. But let us not anticipate ourselves.

¹² Mallory, p.6.

¹³ Ibid., p.2.

¹⁴ Ibid.

¹⁵ Hockin, op.cit.,p.383.

The opposition to effective specialized committees was (and is) based on two major principles. The first is concerned with the nature of Cabinet Government, and the second regards the belief in the equality in all matters of all members of the House of Commons.

A central feature of our system is the responsibility of the Cabinet, with its collective neck on the block, for the entire program of public policy and public legislation at the federal level. Committees tend to take on a life of their own, and it is not always easy to reconcile their increased use with Cabinet control. Parliamentary committees cannot have the free-wheeling autonomy of congressional committees in the United States without affecting the central doctrine of Cabinet responsibility.¹⁶

The importance of the position outlined by Mr. Robertson cannot be over-emphasized. It is submitted here that the success of Parliamentary committees will in large measure be determined by the interpretation given in the future to exactly what is entailed by the concept of collective ministerial responsibility. If some degree of flexibility can be introduced into the system, then the legislative role of committees might be enhanced. Mr. Robertson envisaged this possibility by adding that,

The American system may be better suited in some respects to these times than the British. It may be that we will have to accept compromises to make the principle of ministerial responsibility flexible enough to work today. Perhaps one of these is the development of a doctrine by which changes in legislation in committee can be regarded as not matters of confidence unless the government so decides.¹⁷

¹⁶ R.G. Robertson, "The Canadian Parliament and Cabinet in the Face of Modern Demands," Canadian Public Administration, Volume 11 (Fall, 1968), p.276. (Mr. Robertson is presently Clerk of the Privy Council and Secretary to the Cabinet).

¹⁷ Ibid., p.276.

This is a matter which will be discussed in another part of this thesis.

The second objection to specialization in committees is based on the view that all members of parliament should have equal opportunities to express grievances before the granting of supply and should also have an equal chance to comment on all proposed legislation. Such was the opinion presented to the House of Commons in 1969 by the Honourable Marcel Lambert (P.C., Edmonton-West):

And who shall say on a particular bill affecting constituencies from one end of the country to another that such and such a frontbencher who represents his constituents and such and such a backbencher or private member who represents his constituents shall be the only ones to speak. Who is going to arrogate unto himself the role of God in saying, 'You, from the Province of Nova Scotia, on this particular subject, you cannot be heard; and you, from Ontario, on this subject, you will not be heard. Hon. members forget that in this house we are equals and have equal rights to speak.¹⁸

Even if one discounts somewhat for the rhetorical excesses of an opposition member in the midst of a heated debate, Mr. Lambert's remarks remain a clear illustration of the anti-specialist theory described by Hockin.

The House of Commons adopted major procedural
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reforms in 1965, 1968, and 1969. While this study is concerned

¹⁸ Canada, House of Commons Debates, July 11, 1969, p.11118.

¹⁹ See in particular, Thomas A. Hockin, op.cit.; Pauline Jewett, "The Reform of Parliament," in The Journal of Canadian Studies (November, 1966); Honourable Donald S. Macdonald, "Change in the House of Commons-New Rules," in Canadian Public Administration, Volume 13 (Spring, 1970), pp.30-40; and Donald Page, "Streamlining the Procedures of the Canadian House of Commons, 1963-1966," in the Canadian Journal of Economics and Political Science, Volume 33 (February, 1967), pp.27-49.

primarily with the new functions of the Standing Committees, a proper understanding of the changes which were made requires a knowledge of the reasons for the changes, and this goes beyond simply knowing why the old committee system was a failure.

By the mid-1960's there was a widespread feeling in Canada that the House of Commons was ineffective in the performance of its functions and at the same time was impeding the necessary efficiency of government. "The old saying is that the mills of God grind slow, but they grind exceedingly fine. In the case of our House the accusation is that it has been grinding
20
both slow and coarse."

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Walter Bagehot in 1866 assigned five particular roles to the House of Commons - an electoral one, an expressive one, a teaching function, an informing function, and a legislative one. John Roberts (Liberal, York-Simcoe) suggests that:

It is striking that 100 years later all of these functions, with the exception of the first have waned to insignificance. The Commons lost at the turn of the century the reality (though not the form) of legislative power to the Cabinet and civil service. The role of expressing public opinion to government has largely been taken over by pressure groups, the press and public opinion polls. The role of educating public opinion has similarly been eroded by the growing importance of the media. The role of communicating grievances is more and more undertaken by government departments and agencies (for instance, Information Canada). The task of giving effective scrutiny to government administration has proved, in its complexity, largely beyond the capacity of the Commons, largely because of the traditions

20 Macdonald, op.cit., p.30.

21

Walter Bagehot, The English Constitution, with an Introduction by R.H.S. Crossman, Fontana Library Edition (London: Watts, 1964).

of secrecy which dominate government decision-taking.²²

While Roberts' analysis is valid, the fact that the House of Commons was not performing its functions well did not necessarily mean that governments had free rein to do what they wished when they wished. Rather the House of Commons seemed to spend an excessive amount of time in not performing its duties. The result was not only that governments were impeded in the presentation of their legislative programmes, but that they were obstructed in ways which did not provide effective control or scrutiny over their actions.

The procedural reforms of 1965, 1968, and 1969 were designed both to speed up the work of the House and also to improve the role of members in the process of control and scrutiny of government programmes as well as in the formulation of policy.

We relied heavily [in the past,] not on the House of Commons, but on the Cabinet, the civil servants, the Treasury Board and the legal draftsmen to assure that the public business was well done...Now however, it is agreed among the members that we should not permit ourselves the luxury of relying on Ministers, on civil servants, and on draftsmen to assure the quality of the law, policy, and administration in Canada. Our House of Commons should engage more profoundly in the process of scrutiny. In [1965], 1968 and 1969, the House took giant steps to move forward from its colonial origins and to bring itself into step... with the needs of our country as it enters upon its second century.²³

²² The Globe and Mail, November 21, 1970, p.7.

²³ Macdonald, op.cit., p.39.

Those reforms which dealt with time allocation and other devices to speed up the work in the House of Commons itself do not concern us in this thesis. But those which affected the functioning of Standing Committees are very relevant to our work. We shall outline first what changes were made and what their intent was, and then we shall mention some views which were expressed regarding the advantages and disadvantages of Standing Committees.

On December 14, 1964 the Special Committee on Procedure presented a report dealing with the role of Parliamentary committees, and stated that "the structure of the Standing Committees tends to be cumbersome and, in some respects, even archaic... A fundamental reorganization of Standing Committees is necessary if they are to be revitalized and their effective-²⁴ness and prestige enhanced." There was considerable debate in the House of Commons in 1965 over this report.

On June 8, 1965 the House passed a motion which stated in part that, "In order to secure improved examination of the details of legislation and of public spending, while maintaining the full authority of the House, this House agrees upon²⁵ the value of making increased use of Standing Committees." The reforms which were subsequently adopted on a provisional²⁶basis were of the following nature:

First, the number of Standing Committees was

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Canada, House of Commons, Journals, Vol CXI, 1964-65, "Fifteenth Report of the Special Committee on Procedure and Organization" (December 14, 1964), p.985.

²⁵

Canada, House of Commons Debates, June 8, 1965, p.2121.

²⁶

See Pauline Jewett, op.cit.

increased from fourteen to twenty-one and they were re-organized along functional lines so as to correspond somewhat to Departments of Government. Second, the membership of Standing Committees was reduced to an average of twenty-four and their quorums were increased from one-third of the members to a majority of the members. Furthermore, the Committees were "severally empowered to examine and enquire into all such matters and things as may be referred to them by the House; to report from time to time their observations and opinions thereon; to send for persons, papers and records; and to print from day to day such papers and evidence as may be ordered by them."²⁷ It was decided "that detailed examination of estimates, saving always the right of the Committee of Supply, be undertaken by Standing Committees."²⁸ As well, the Government promised to refer more bills to Standing Committees for detailed study after the second reading stage in the House.

29

The procedural reforms of 1968 and 1969 consolidated and went beyond those of 1965. The earlier reforms were provisional and had been renewed with modifications from session to session until the new Standing Orders were passed in 1968 and 1969. The most important new points are the following:

First, all departmental estimates were to be referred to the appropriate Standing Committee for detailed study. The simultaneous abolition of the Committee of Supply reinforced

²⁷ Canada, House of Commons Debates, June 11, 1965, p.2310.

²⁸ Ibid., p.2307.

²⁹ See Donald Macdonald, op cit., and Mark MacGuigan, "Backbenchers, The New Committee System and the Caucus," in Paul Fox (ed), Politics: Canada (Third Edition, Toronto:McGraw Hill Co. of Canada,Ltd., 1970), pp.379-381.

the importance of the Committees for it became highly unlikely that the debates in the Committees would merely be repeated at a later stage in the House of Commons. However, the provision of twenty-five so-called allotted days per session in which the Opposition could choose the topic of discussion ensured that matters which had been discovered in the Standing Committees to be either of great importance or simply of embarrassment to the Government could be brought to the floor of the House.

Second, it was decided to refer almost all bills to the appropriate Standing Committee for clause by clause study after second reading in the House. The abolition of the Committee of the Whole stage for these bills enhanced the role of Standing Committees in the scrutiny of legislation in the same manner as the abolition of the Committee of Supply enhanced the role of committees in the scrutiny of estimates. However, the provision to allow debate and amendments to be proposed at the Report stage was intended to give the House an opportunity to discuss the most important aspects of a bill which were brought out during the Committee process.

Finally, the number of Standing Committees was reduced from twenty-one to eighteen and the membership of each was set at a maximum of twenty, except for the Committees on Agriculture and on External Affairs and National Defence which were to have thirty members each.

While it is clear that the major purpose of the rule changes was to save Parliamentary time and to prevent

filibustering - "a number of committees meeting simultaneously can accomplish a great deal more than a single Committee of the Whole"³⁰ it is no less clear that small specialist committees are potentially capable of engaging in more effective and detailed scrutiny of estimates and of legislation than can an unwieldy Committee of the Whole. Furthermore, there is the possibility that specialist committees will be able to engage in investigations of various issues of public concern. Such a hope was expressed by the Special Committee on Procedure of the House:

We would expect debate in the Standing Committees to be well-informed and pertinent; their members to become influential in the areas of their specialized expertise; and their reports to the House to assume a critical significance related more closely to the national interest as a whole³¹ than to simple political differences.

The debates in the House of Commons on procedural reforms brought out certain views about what could and should be expected of Standing Committees. In essence the comments fell into three broad categories, the first related to the degree of independence the committees would have with respect to the Government; the second concerned the fate of committee reports; and the third had to do with the tools which the committees would require in order to work effectively. Each of these matters is of direct concern to an analysis of the role of the House of Commons Standing Committee on Finance, Trade and Economic Affairs in the process of tax reform in Canada, and, therefore, merits some

³⁰ MacGuigan, op.cit., p.379.

³¹ Canada, House of Commons, Special Committee on Procedure of the House, Third Report (December 6, 1968), paragraph 12.

comment here.

The question of how much Standing Committees might be independent of the Government is directly linked to the doctrine of collective Cabinet responsibility for public business. Prime Minister Pearson was quite specific in stating that while parliamentary committees might play an increased role in the governmental process, they could not develop in the same way as Congressional committees "because in the House of Commons we have a discipline imposed by the threat of dissolution, and this extends also to committee work [*italics mine*], even though party divisions there may not be as apparent as they would be in the House itself." ³²

Opposition members were adamant that government members on committees must not have as their sole function the protection of the government position. Furthermore, committee chairmen should, they said, be impartial rather than act as "hatchetmen" for the Government. This position was best expressed in July 1969 by Marcel Lambert:

We have developed a committee system that will fail if we do not have strong impartial chairmen. And, Mr. Speaker, we want our chairmen to be as free from pressure and as impartial with members of the committee as Your Honour is in the House of Commons. In many ways our committee chairmen must be carbon copies of Mr. Speaker and display an impartiality of conduct and a knowledge of how committee meetings ought to be conducted. Otherwise our committees may become arenas for hatchet games in which government instructions will be carried out to the letter.

After all, have we not heard that the government house leader has indicated to government members that their function in the committee system is not primarily to amend legislation and alter estimates, but to protect the government?

³² Canada, House of Commons Debates, March 18, 1965, p.12544.

They are part of the government's team and are to act as such. Well, Mr. Speaker, the natural consequence of that is, as I said a moment ago, that the committees will become arenas for hatchet games. The whole of the process is spurious if it is felt that the committees are not going to be a forum for discussing and examining legislation and estimates and/or going into questions that the government has put before them.³³

The fears expressed by Mr. Lambert reflected a feeling that the new form of Standing Committees could conceivably display many of the faults of the old system. Whether this need be true is a matter which will be discussed in a later chapter.

The second aspect of the debate on the role of committees concerned the use to which committee reports would be put. Much stress was laid on the need for the Government to give serious consideration to all recommendations of committees and, when it rejected them, at least to justify the rejection. Typical of the exponents of this viewpoint was Douglas Fisher (N.D.P., Port Arthur):

They have every right as responsible ministers to deny the wisdom of committee recommendations, but why can they not be honest with the committee members who have worked to draft these recommendations? I suggest this is one of the great problems parliamentary committees have faced in the past. Government ministers and senior administrators have not played fair in respect of recommendations and reports that have been made by committees. Instead it is considered politic or good tactics to just let them die, to resort to all kinds of subterfuge and ambiguities in order to let things slide away. That is one of the reasons many members have a difficult time taking committees seriously....³⁴

³³ Ibid., July 11, 1969, p.11118.

³⁴ Ibid., March 18, 1965, p.12516.

The third aspect of the debate concerned the tools which the Standing Committees would require to carry out their work effectively. Basically the contribution of members centred around the need to provide committees with adequate staff. The comments of R.Gordon Fairweather (P.C., Fundy-Royal) were representative of the views of many members:

I have suggested that we are at the stage where we must accept the principle that committees should be adequately staffed. Certainly if the proposal to end the committee of supply comes into effect, it will be the responsibility of the government, and we will remind them of it, to ensure that committees are adequately staffed with technically knowledgeable people who are not beholden to the ministry. This is the only way we can have independent and proper questioning.³⁵

Another suggestion that was made recommended the periodic adjournment of the House to give committees the opportunity to meet at times when members would have fewer conflicting engagements. There were other proposals which, while important, regarded such technical problems as times of meetings, the availability of committee rooms, translation facilities, technical staff, the difficulties of printing proceedings and other such matters. However, these are not really fundamental issues and do not concern the substance of this thesis.

It is suggested here that the single most difficult problem which a revitalized Standing Committee system must face is how to reconcile the principle of collective Cabinet responsibility for public business with the need for effective parliamentary scrutiny of the actions of government. This is most acute

³⁵ Canada, House of Commons Debates, December 16, 1968, p.3982-83.

in the twin areas of legislation and of estimates.

To allow Standing Committees to make fundamental alterations in either legislation or estimates presented by the Government would represent a sharp break with parliamentary tradition as it has been practised in Canada (and in Great Britain). While there may very well be excellent reasons for such a break to be made, it is submitted that most governments would be extremely reluctant to acquiesce in this type of development. At any rate, the question of the role of Standing Committees with respect to legislation and estimates is not the major concern of this thesis.

Rather we are most interested in dealing with the function of Standing Committees in the stages of policy-formulation which lead up to the taking of final decisions by Government. This role, for want of a better term, can be considered the "investigatory" function of committees. Intuitively it should be freer from government constraint than are the other two functions, for the principle of cabinet responsibility for final decisions is not sacrificed by giving private members of parliament working together in committees some say in the early stages of policy formulation.

Senator Maurice Lamontagne has suggested that as members of parliament become "more interested in the substance and less in the detail of legislative proposals...greater emphasis will be placed on parliamentary committees."³⁶ This is a very

36

Maurice Lamontagne, "The Influence of the Politician," Canadian Public Administration, Volume 11 (Fall, 1968), p.268.

important point and one well worth emphasizing. Parliamentary committees, if they are interested in the substance of policy formulation, can conceivably perform Bagehot's expressive, teaching and informing functions.

It has been suggested that even if Standing Committees cannot make final policy decisions,

They are, however, useful forums for initiating public discussion, and informing and educating members of parliament and the public... [Furthermore they] show a strong possibility of developing into 'court of appeals' giving all interested parties an opportunity to express their views in public on policy decisions before they are finally ratified by Parliament.³⁷

A number of parliamentary reformers have recognized the difficulties involved in suggestions that Standing Committees be enabled to change government policy once it has been expressed, but they have seen an important role for them to play in the early stages of policy formulation. One rather typical viewpoint is that of John Mackintosh. While his analysis is in terms of the British House of Commons, it is readily applicable to Canada:

Facing this situation [government control of the House of Commons and disciplined parties], the reformers appreciated that it was not possible to go back to the more open and independent voting of the mid-nineteenth century. Nor was there much use producing more time for backbench contribution if the timetable itself was in the hands of the Government. Direct control could scarcely be restored to M.P.'s since they had no secure base, no independent position in their constituencies which would enable them to resist party pressure. But ministers are still

³⁷ C.E.S. Franks, "The Committee System of the Canadian House of Commons," an unpublished paper presented to the annual meeting of the Canadian Political Science Association, May, 1969, pp.1-2.

influenced by public opinion, and by the need to win general elections, so that the House of Commons could be given a slightly larger place in the decision-making process, if, without in any way tampering with party loyalties, it could find out and publicize the real choices open to the Government at any particular time...In this way, the Commons could be given investigatory functions which would a) open up an issue allowing outside opinion to focus on the problem before a decision was taken, b) inform M.P.'s so that debate would be more relevant and therefore testing for Ministers, c) force Departments and pressure groups to explain their assumptions, do the necessary research and justify their decisions.³⁸

Many reformers, especially in Great Britain, have been careful to suggest that the investigatory function of committees can be best put to use with regard to subjects which are non-partisan or on which the government has no clear policy. While Bernard Crick was writing about Select Committees, his analysis remains applicable to the investigatory function of Canadian Standing Committees:

They perform a kind of task for which the House itself is not suited; the examination of witnesses, the sifting of evidence, the production of a reasoned and concise report and usually proposals...They can be an effective and indirect instrument of control over the Executive, without in any way being able to dictate to the Executive. The House of Commons could and should make more use of Select Committee procedure in matters of public policy on which there is simply a lack of information. Obviously a Select Committee cannot usefully be employed when

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John P. Mackintosh, "Specialist Committees in the House of Commons: Have They Failed?" in The Waverly Papers, Occasional Paper 1: Series 1 (University of Edinburgh, 1970), pp.7-8.

it is considering a matter on which there is a predictable Party split and rival line already well known. It will be most useful on matters which can be regarded as non-partisan (or, more often, which cut Party lines badly), or on matters on which the government has no clear policy and is willing to surrender some responsibility to the House.*[Italics mine]*.³⁹

The suggestion that committees can be effective in investigating subject matters which cut party lines and/or on which governments have no clear policy leads to a discussion of the role of parliamentary committees with respect to white papers on policy issues.

Over the last few years, the Canadian Government has made increased use of White Papers in areas in which it has hoped to stimulate public discussion before arriving at final policy decisions.

The developing practice of issuing White Papers when crucial decisions are being taken on important social and economic questions flows naturally from *[the]* attempt to adapt Parliament to modern times. Basically it is an exercise in increasing the knowledge of Parliament so that its final decisions will be improved. Concerned and interested Canadians can present facts about their personal or business situations. The government and Parliament have a further gauge of public opinion generally. In other words, a White Paper enables Government to take better account of the impact of possible decisions so that they can be improved before legislation is enacted...This should mean an improvement in decision-making not only because it will sharpen the operation of democracy but also because it will increase the effectiveness of the final legislation in applying decisions on broad issues to the particular circumstances of Canadian individuals and organizations.⁴⁰

³⁹ Bernard Crick, The Reform of Parliament, pp.98-99.

⁴⁰ Speech by the Honourable E.J.Benson, Minister of Finance, to the Canadian Tax Foundation, March 24, 1970, published in Canadian Tax Foundation, Report, 1970 Conference (Toronto, 1970), p.253.

Nonetheless, Mr. Benson warned that the White Paper process involved two major difficulties: a) the creation of uncertainty if final decisions are postponed too long; b) the fact that the "vocal minority" may prevail over the "silent majority." Mr. Benson said that "it is well known that oiling the squeaky wheel is not often the best way of meeting the true needs of the country. The government must be aware of special⁴¹ interests." The Minister stressed that the dangers should be recognized so that they might be avoided.

One of the devices available for channeling the discussion arising out of white papers is the parliamentary committee. Its role would be to bring out conflicting viewpoints, to become informed about the issues involved, and then to produce a report to the House of Commons on the matter at hand.

In this thesis we have chosen to examine the role of the House of Commons Standing Committee on Finance, Trade and Economic Affairs in the process of tax reform in Canada. We shall be dealing with the work of a Committee in an area that involves some of the basic goals and values of Canadian society. In so doing we hope to arrive at conclusions which can be extended in a general way to the role of Standing Committees of the Canadian House of Commons in the process of policy formulation. The next chapter discusses some of the background of tax reform in Canada prior to the referral of the White Paper to the Standing Committee on Finance, Trade and Economic Affairs.

41

Ibid., p.254.

CHAPTER TWO

THE PROCESS OF TAX REFORM IN CANADA

We want the tax system to be an example, a reflection, of what we agree to be the proper relationship between the state and its citizens. Who is encouraged by the tax system? Who is rewarded by it? Who retains the power to control the economy; how is the economic power distributed? What are the values which underlie our tax system? These are the criteria by which we think the White Paper before us should be measured.¹

- David Lewis

Mr. Lewis asks questions which are answered in different ways by different people depending on their social philosophy. But the questions themselves are generally agreed to be pertinent to any discussion of systems of taxation. Because a taxation system is a clear reflection of the values of a society, tax reform of whatever nature is bound to result in considerable political debate and controversy.

A student of public finance would rightly insist that economists are needed to design a technically competent tax

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Canada, House of Commons Debates, November 28, 1969, p.1384.

system; a student of political science would point out that some of the objectives of taxation are in conflict with each other and that politicians are required to resolve the conflicts and to implement the system which best corresponds to the social values of any given society.

The reform of Canada's tax system has been a major political issue since 1962. The primary concern here is with the methods used by Governments to bring about changes in the tax laws. The changes themselves concern us only inasmuch as they reflect the power relationships in Canadian society and how these operate upon Government. The concern of this thesis in later chapters with the role of the parliamentary committee which dealt with the White Paper on tax reform is predicated on the view that its operations bring to the forefront some very important elements relating to the operation of the Canadian political process.

This chapter deals with the stages leading up to the committee study of tax reform. Some of the analysis in the following pages will deal with technical aspects of taxation, for the study of the process of tax reform does not lend itself to a clear separation of economics and politics.

A. The Carter Commission

The first step towards a major reform of Canada's system of taxation was taken by the Diefenbaker Government when, on September 25, 1962, it named a six member Royal Commission of Inquiry, chaired by Mr. Kenneth LeM.Carter, to inquire into and report on all aspects of the Canadian federal tax system. In

order to fulfil its mandate, the Commission held 99 days of public hearings in twelve cities in Canada. It received over 300 briefs and heard over 700 witnesses. Furthermore, it embarked on an immense research programme in order to obtain the necessary material for a comprehensive report.

On February 24, 1967 more than four years after² the appointment of the Commission, its massive six-volume report was tabled in the House of Commons by Finance Minister Mitchell Sharp. Its analysis and recommendations won wide acclaim amongst a great many academic economists and produced deep consternation amongst many Canadian businessmen.

It is not the purpose of this thesis to discuss at any great length or in any great depth the content of the Carter Report. Nonetheless, because it will be necessary at later stages to make reference to the work of the Commission, there follows a brief outline of some of the main aspects of the Report and of their significance.

In an address to the April 1967 conference of the Canadian Tax Foundation, Mr. Carter suggested that the Royal Commission built its Report around three major ideas:

- i) All receipts from whatever source should be included in the tax base...
- ii) There should be no preferential rates of tax.
- iii) Any departures from these principles shall be supported by convincing reasons in economics, social philosophy or administrative needs.³

2

Report of the Royal Commission on Taxation (Ottawa, 1967).
Henceforth referred to as the Carter Report.

3

Canadian Tax Foundation, Report, April 1967 Conference (Toronto, 1967), p.6.

What followed from these three premises were over three hundred recommendations of varying importance. The major ones form the "package" which Mr. Carter stressed should be considered together: "I generally put down four items - first of all the comprehensive tax base, then integration, lower top rates of tax, and averaging." ⁴ According to the Chairman, the following would be the principal achievements of the Report, if implemented:

1. It would contribute to the growth of the Canadian economy by:
 - a) giving more efficient incentives to small enterprises, new businesses, small farms and mines. It was clear to us that small enterprises have greater difficulty raising and accumulating capital and lack most opportunities to pool risks;
 - b) reducing rates of tax in some brackets so as to reduce the brain drain from Canada and to encourage greater effort by Canadians;
 - c) offering incentives for more university education;
 - d) removing most of the barriers that now impede wives from entering the labour force;
 - e) removing existing tax biases in favour of some industries which would cause capital to flow more readily to the most productive uses and thus contribute to increased national productivity.
2. It would encourage Canadian ownership of Canadian industry without discouraging the flow of investment funds into Canada. We believe that our recommendations would cause Canadian individuals and institutions more readily to invest in equities which, in turn, would encourage non-residents to increase their holdings of fixed-income securities.

3. According to the Commission's judgment, the recommendations would produce a fairer distribution of the burden of government which is not incompatible with good economics.
4. The recommendations would remove many anomalies and close loopholes. The most obvious are, of course, those which now exist because of the exemption from tax of some economic gains and also the differences in the weight of taxation on income from different sources. This would improve the equity of the system...⁵

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"A model for the world to follow" and "a landmark among public documents - of any nation - setting forth policy prescriptions in the tax field"⁷ are but two of the praises lavished on the Report by distinguished scholars of public finance. Nevertheless, while experts could praise the Carter Commission for proposing a tax system that combined the principles of equity, neutrality and administrative feasibility, the Government was quick to discover that the Carter Report had stirred up a real political hornets' nest.

It is simply impossible to replace one system of taxation with another and to expect that the habits acquired by taxpayers under the old system will be forgotten as soon as the new one is introduced. For this reason it is much more difficult to introduce such fine academic concepts as equity and neutrality into a system that is neither equitable nor neutral than it is to begin with such a system in the first place.

Equity in taxation is considered to operate on a horizontal plane and on a vertical plane. Horizontal equity

⁵ Ibid.

⁶ R.A.Musgrave, "The Carter Commission Report," Canadian Journal of Economics, Volume 1, 1968, p.182.

⁷ Arnold C.Harberger, "A Landmark in the Annals of Taxation," Canadian Journal of Economics, Volume 1, 1968, p.183.

requires the equal treatment of those in equal circumstances. Vertical equity requires unequal treatment of those in unequal circumstances and is the basis of the progressive income tax. Vertical equity corresponds to the doctrine of taxation according to ability to pay. Real equity - horizontal and vertical - requires a comprehensive tax base which means in Mr. Carter's famous phrase "a buck is a buck is a buck."

Neutrality in taxation is closely related to equity and means that the tax system should not favour one taxpayer over another. In other words, a neutral tax system would not allow preferential tax treatment, for example, of the resource industries. If Government wished to favour a particular industry, it would do so through direct subsidies rather than through tax concessions.

It becomes clear that the introduction of a tax system based primarily on equity and neutrality would result in tremendous protests from those who are now benefitting from the inequities and distortions. A Government must decide whether it believes that the first aim of a tax system should be equity and neutrality even to the possible detriment of a high rate of economic growth. If the answer is in the affirmative, a second question is whether the power relationships in society are such that those favouring equity can outweigh the lobbies in favour of tax-free capital gains and tax privileges for the resource industries.

The questions which were to be raised over and

over again in the debate on tax reform regarded the degree of equity and neutrality there should be in the tax system, or in other words the degree to which the different sectors of society should bear the tax burden. A closely related question concerned the role of the tax system in stimulating economic growth.

The sheer scope of the ground covered by the Carter Commission and the revolutionary nature of its recommendations ensured a debate that would be long and controversial. Indeed it took more than two and a half years after the Report was made public for the Government to bring forward its own proposals for tax reform.

B. From the Carter Report to the White Paper

From the time he tabled the Carter Report in the House of Commons to the time he left the Department, Finance Minister Mitchell Sharp approached the recommendations with the caution of a man assigned to defuse a timebomb. And the Report of the Royal Commission was indeed a very powerful and unpredictable political timebomb.

In tabling the Report, Mr. Sharp gave no indication of the Government's views on tax reform. He simply stated the following:

It will take a long time for hon. members and the public to read these reports and to assess the recommendations and arguments pro and con. There will inevitably be many differing views as to what should be done about the proposals.

The government intends to study the report and the views expressed on it during the next few months, before reaching conclusions about

the recommendations made by the commission or alternative suggestions made by other sources. In the meantime, we do not intend to comment upon the substance of the report, nor indicate our intentions concerning its recommendations.⁸

Three days later the New Democratic Party leader Tommy Douglas suggested that the Carter Report be referred to the House of Commons Standing Committee on Finance, Trade, and Economic Affairs "that it may have an opportunity of examining those recommendations in depth and making some report to the house with respect to this matter."⁹

Mr. Sharp rejected the proposal of Mr. Douglas and expressed his view that

perhaps the best way of proceeding would be for the government, after there has been a reasonable opportunity for discussion, to bring in a bill and have that bill referred, before it is approved on second reading, to a committee for discussion when representations could be made.¹⁰

Two months later in the banquet address to the Conference of the Canadian Tax Foundation,¹¹ Mr. Sharp outlined in considerable detail the way in which he wished to approach tax reform and the tentative timetable he had in mind.

The minister repeated the intention of the Government not to make any comment on tax reform until it had studied the Carter Report in depth and had received briefs from interested parties. He set the end of September 1967 as the deadline for

⁸ Canada, House of Commons Debates, February 24, 1967, p.13479.

⁹ Ibid., February 27, 1967, p.13497.

¹⁰ Ibid., p.13497.

¹¹ Canadian Tax Foundation, op.cit., pp.471-480.

the submission of written briefs to him and urged that they cover, in particular, twelve major areas: the taxation of capital gains; the integration of corporate and personal income tax; the inclusion of gifts and bequests in taxable income; the concept of averaging of income over a number of years; the taxation of the family unit as compared to that of individuals; the taxation of contributions to and earnings from pension plans; deductible business and employment expenses; the appropriateness of a single rate of corporation tax, and the proposed flexibility to be allowed in charging off all capital costs incurred by small and risky businesses; the taxation of mines, and of oil and gas income; the proper tax treatment for life insurance companies; the basis for taxing income of Canadian corporations from sources outside Canada; finally, how much the foregoing are essential parts of a single package, and how far there can be variations in what is included and in the time of incorporation in the system.

After receipt of the briefs, the next step would be, according to Mr. Sharp, Cabinet deliberation and then publication of a White Paper expressing tentative Government policy with regard to changes in the income tax. The White Paper would be subject of comment from interested taxpayers and from provincial governments. The process of examination of the White Paper would enable the Government to introduce a draft bill incorporating the necessary modifications to the original proposals. The draft bill would in turn be subject to scrutiny in order to help the Government introduce final legislation which it hoped would be

satisfactory. The minister expressed the desire that the whole process be completed by the end of 1968.

In his budget speech of June 1, 1967, Mr. Sharp reiterated his previous remarks concerning the plans of the Government for tax reform. He added that he had discovered that the Royal Commission Report "bristles with both technical and policy problems and, need I add political problems."¹² The Finance Minister then seemed to try to cast some of the blame for his difficulties upon the Opposition when he reminded the House that "the Commission...was appointed by the Government which preceded us in office."¹³

By the middle of November 1967 there was no sign of the White Paper, but there was evidence that the recommendations of the Carter Report were meeting with very stiff opposition from various interest groups. Speaking to the Canadian Tax Foundation Conference, Revenue Minister E.J. Benson announced that the Government had received almost 975 written submissions on the Carter Report: "There are some notable exceptions, but by and large, the briefs have, if I can twist a phrase from Shakespeare, come to bury the Report, not to praise it."¹⁴

During the months of October and November, Marcel Lambert and Eldon Woolliams, two Progressive Conservative members of parliament and noted friends of the extractive industries, attempted to persuade the Government to refer the Carter Report to the House of Commons Standing Committee on Finance, Trade, and Economic Affairs or to a special joint committee of the Senate

¹² Canada, House of Commons Debates, June 1, 1967, p.857.

¹³ Ibid.

¹⁴ Canadian Tax Foundation, Report, November, 1967 Conference (Toronto, 1968), p.357.

and the House of Commons. It appears evident that their desire to refer the whole matter to a parliamentary committee, before the Government had produced its own policy proposals, was simply an attempt to provide a forum for business to publicize its objections to the Carter Report.

Mr. Sharp consistently refused the request of his Conservative opponents. His clearest statement was in reply to Mr. Lambert:

Since the Carter Commission was appointed not by us but by the Government of which the hon. gentlemen was a member I feel it would be better and more in the interests of the expedition of business here if the committee to which the subject was being referred was to have before it for consideration not only the recommendations of such a commission, but the recommendations of the Government. ¹⁵

While Mr. Sharp was unimpressed with the suggestion for the immediate referral of the Carter Commission proposals to a parliamentary committee, he did seem impressed with many of the criticisms made of the recommendations. In his second budget speech of the year, he indicated that the tax reform he would eventually propose would be very mild in comparison to the sweeping changes suggested by the Royal Commission:

I believe that the report of the Royal Commission will turn out to have been of great value to the government, to parliament and the people of Canada in helping us all to recognize the deficiencies in our present tax system and to devise sensible ways to reform the system. However, the work we have done within the government, as well as the analyses we have received from others, leads us to the conclusion that while the reforms we will place before parliament and the public in the form of a White Paper and ultimately in draft

15

Canada, House of Commons Debates, October 3, 1967, p.2754.

legislation will undoubtedly be influenced by the monumental report of the royal commission, they will be more in the nature of reforms of the existing tax structure rather than the adoption of a radically different approach.¹⁶

While the publication of the White Paper was originally scheduled for early in 1968, the announcement of Mr. Pearson's retirement as Prime Minister and the subsequent convening of a Liberal Party leadership convention caused some delay. The formation of a new government by Mr. Trudeau in which Mr. Benson replaced Mr. Sharp as Finance Minister and the general election which followed in late June were responsible for a further postponement of the Government's introduction of tax reform proposals.

Speaking in the House of Commons on September 16, 1968, Mr. Benson indicated that there would be a change in the way in which the Government would proceed with tax reform. Instead of introducing a White Paper, a draft bill would be presented:

Mr. Speaker, although I would not like to be tied to this, may I say our present intention is to introduce sometime early next year, a draft bill dealing with tax reform which, after first reading, will be referred to a committee of the House. However, this is subject to change.¹⁷

In his budget speech of October 22, 1968 Mr. Benson announced changes in estate taxation which implemented certain of the recommendations of the Carter Commission. However, he emphasized that "the tax recommendations which I am making tonight are not an integral part of next year's reform package...They do

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Ibid., November 30, 1967, p.4906.

¹⁷

Ibid., September 16, 1968, p.51.

not commit us to particular changes in other areas." ¹⁸ With regard to major tax reform, the Minister declared:

I have been over with my officials the conclusions which they have reached from a long and comprehensive review of our income tax laws, the report of the Royal Commission on Taxation and the scores of briefs and hundreds of letters which we have received on the subject. After further thought I have reached certain decisions which I have asked my officers to set forth in the form of a draft bill, which I will place before my colleagues for their approval or modification. It is this draft, suitably revised and explained, which will be placed before the house, provincial ministers and the public for detailed study and discussion early in the new year. It would then be reconsidered and revised by the government for final consideration by the house in the latter part of 1969. By that means I hope we can have a reformed income tax in effect in 1970.¹⁹

At the beginning of January 1969, Mr. Benson postponed the introduction of tax reform for another six months. The minister said that the delay was due to the careful study required for such a matter and the difficulty involved in the drafting of a bill. Despite the reasons given by Mr. Benson, it would be legitimate to speculate that other factors were involved in the delay. In the light of intense pressure from organized interests and from the provinces against anything which might possibly be seen to discriminate against rapid economic growth, the Federal Cabinet was somewhat divided as to the extent of its reform proposals.

¹⁸

Ibid., October 22, 1968, p.1685.

¹⁹

Ibid., p.1684.

Opposition leader Robert Stanfield made clear his preference for the publication of a White Paper instead of a draft bill:

Mr. Stanfield: I should like to ask the Minister of Finance quite earnestly whether he would not consider producing a white paper with regard to tax reform prior to introducing the bill, on the ground that once the government introduces legislation even in draft form it seems to be committed to it. Would the minister not agree that a white paper might lead to more effective consideration and better results in the end?

Mr. Benson: The reason I indicated we would introduce a draft bill is that people could then take a look at it and assess the implications of the various changes on the remainder of the tax legislation. I have also indicated that the draft bill would be referred to a committee of the house, and that the government would not be bound to the ideas presented in the draft bill, but would feel free to change any of them if it were convinced by representations to the committee that such changes were in the interest of the people of Canada.²⁰

Within a few weeks the Government decided to accept Mr. Stanfield's position. Prime Minister Trudeau said that "if there is sufficient argument made strongly for a white paper, the Minister of Finance has been telling me that he is prepared to consider that alternative if it appears more helpful to the house and the provinces."²¹ And on February 21, Mr. Benson announced officially that a white paper would be presented in lieu of a

²⁰ Ibid., January 21, 1969, pp.4547-48.

²¹ Ibid., February 6, 1969, p.5213.

draft bill. His reason was basically a face-saving one: "The bill cannot be drafted by June. That is the reason for present-²²ing the white paper without the draft bill included."

The White Paper, however, was not ready by June. In his June 3 budget speech, Mr. Benson promised to issue it "sometime during the parliamentary recess." This promise too was not kept, and it was not until November 7, 1969 that Mr. Benson finally tabled in the House of Commons the White Paper entitled²³
Proposals for Tax Reform.

C. The White Paper

The White Paper is neither as comprehensive in scope nor as revolutionary in its proposals as the Carter Report. While the Royal Commission dealt with many different aspects of the Canadian tax system, the White Paper confined itself to one tax field, - albeit the most important - that of personal and corporate income. While Mr. Carter did not need to fear the political repercussions of a stress on absolute equity and neutrality, Mr. Benson had to formulate his proposals with some regard for what he saw to be the political realities surrounding him.

Mr. R.B.Bryce has outlined some of the thinking that went into the writing of the White Paper:

I would start by pointing out that in this reform the government has not taken a rigid position on principles, even on that exotic principle that 'a buck is a buck is a buck.' We are endeavouring, however, to be much

²² Ibid., February 21, 1969, p.5797.

²³ Honourable E.J.Benson, Proposals for Tax Reform (Ottawa, 1969). Henceforth referred to as the White Paper.

more consistent than in the past in the treatment of economic transactions, those which increase economic power by economic means - in the treatment of capital gains for example.

The government has also not taken a rigid line on economic neutrality. It accepts the idea that taxes may favour certain types of economic behaviour. It is, however, proposing that departures from neutrality must be justified, and some major departures have been accepted...

As a method of reform the government has discarded efforts at patching up the existing system. There are an awful lot of patches already in the law and the government has chosen a new framework - a system based on the work of the Carter Commission - with as many as possible of the existing sections and definitions carried so as to enable the previous jurisprudence to be used. The system proposed is, of course, one that inter-relates personal income tax, corporate income tax and capital gains all in one integrated system. Such a system, we feel, is inherently more equitable and will be more stable than what we have had.²⁴

Speaking in the House of Commons, Mr. Benson listed four major objectives of the taxation system proposed in the White Paper:

- 1) We believe that there must be a fair distribution of the tax burden based on ability to pay...
- 2) Our second objective was to see that the tax system interfered as little as possible with economic growth and productivity...
- 3) Ours is basically a self-assessment system in which the vast majority of our taxpayers comply in all respects with the tax laws. Our system must encourage them to continue to do so...

²⁴ Canadian Tax Foundation, Report, 1970 Conference (Toronto, 1970), pp.414-415 (Mr. Bryce was Deputy Minister of Finance when the White Paper was being prepared).

- 4) A final important goal is to design a tax system that the provincial governments will adopt for their income taxes.²⁵

The ensuing debate on tax reform revolved around these four basic objectives. There was debate as to the proper ordering of the goals, as to which should have priority if there were conflicts among them, and as to whether the White Paper proposals really met the targets that had been set. In order to be able to place the debate in its proper context, the next few pages will outline the important proposals of the White Paper and will show the areas where controversy was most likely to occur.

1. Burden and Ability to Pay

With respect to the distribution of the tax burden and the principle of taxation in accordance with ability to pay, the Government made two major proposals. The first regarded basic exemptions and the tax rates, and the second dealt with capital gains.²⁶

What was recommended was a higher basic personal exemption - \$1400 instead of \$1000 for a single taxpayer and \$2800 instead of \$2000 for a married taxpayer - with the projected result that 750,000 Canadians would be removed from the tax rolls. There were further proposals to allow certain deductions for the expenses of child care to working mothers as well as for a deduction of three per cent of employment expenses to a maximum of \$150.

²⁵ Canada, House of Commons Debates, November 28, 1969, pp.1370-71.

²⁶ See White Paper, Chapters 2 and 3.

The schedules of tax rates would be changed so as to reduce the burden on lower income taxpayers and to increase it on others. The changeover point for a married taxpayer with two children would be at approximately \$9,100.

The highest nominal rates of tax would be reduced to about fifty per cent. The last figure is somewhat misleading as it gives the impression that the tax burden on those making the highest incomes would be lowered. In reality, the taxation of capital gains would so broaden the tax base as to increase the absolute amount of tax paid by those in the upper-income brackets even if their nominal rates were lower. The White Paper did however leave a feeling - justified or not - that those who would be hardest hit were to be found in the \$10,000 - \$25,000 bracket.

Before tax reform, capital gains had not been considered as income for tax purposes. The White Paper proposed to change the system and to make capital gains taxable but not to tax all gains at the same rates. "Depending on the nature of the asset, all or part of the gain would be included in income and²⁷ taxed at the taxpayer's marginal rate."

²⁸ The most important recommendations were the following: 1) that gains on "investments such as bonds, mortgages, agreements for sale and rental real estate" be fully taxable; 2)²⁹ that gains on shares of closely-held Canadian corporations be

²⁷ Ibid., p.38.

²⁸ Ibid., p.40-41.

²⁹ "Closely-held corporations" are considered to be the incorporated proprietorship or partnership with three conditions a) one

fully taxable; 3) that gains on shares of widely-held Canadian companies be taxable at half-rates. Another proposal was for the revaluation for tax purposes every five years of the accrued but unrealized gains on shares of widely-held Canadian corporations. There was also a provision - which sparked great criticism - whereby abnormally large gains on sales of personal residences would be taxable. There were other less important proposals including the taxation of income from the sale of certain items of personal enjoyment (stamp albums or coin collections) with a value of over \$500.

The possible objections to the recommendations aimed at implementing Mr. Benson's first objective were twofold: those who regard equity and high progressivity as a prime goal would be inclined to favour a system of tax credits instead of personal exemptions and to allow more generous deductions for child care and for employment expenses, and would favour the full taxation of all capital gains. This group would see the

class of shares; b) all shareholders must be individuals resident in Canada or corporations incorporated in Canada; c) if some shares are held by Canadian corporations, those corporations must have the same fiscal year-end as the corporation itself. (see pp.48-49).

"Widely-held Canadian corporations" are defined as follows: "1) All corporations with shares listed on a prescribed Canadian stock exchange on the day the White Paper is published would be deemed to be widely-held corporations; 2) All corporations which subsequently list their shares on these exchanges would become widely-held corporations on the day on which their shares are so listed; 3) Corporations which can meet specified tests concerning the number of shareholders and the number of shares held by those shareholders could elect to be classified as widely-held corporations; The Minister of National Revenue would have the power to designate other corporations as widely-held corporations if they meet certain tests relating to number of shareholders, dispersal of shares and public trading in shares. (In practice this would mean that most corporations with shares traded 'over the counter' would be classified as widely-held corporations); 5) Once a corporation is classified as a widely-held corporation it would always remain a widely-held corporation." (See page 52),

White Paper as being a step in the right direction, but not a sufficient step. Those who are more interested in economic growth than in equity and also in maintaining their own privileges would object both to the increased tax burden on the so-called middle-income group, and to the taxation of capital gains.

2. Neutrality

Neutrality in the tax system was to be promoted by the general recommendations concerning the taxation of corporations and by the more specific ones regarding the extractive industries, pension plans, and capital cost allowances.

In order to provide for neutrality between the corporate and unincorporated sectors and in order to ensure that corporation taxes do not affect different corporations in different ways, the Carter Commission had recommended the full integration of corporate and personal income taxes. The White Paper proposed full integration for closely-held corporations and half integration for widely-held corporations. A further proposal was for the elimination of the special low rate of tax on the first \$35,000 of corporate income.

The White Paper provided for continued tax incentives to the extractive industries. "For mineral resources, the fast write-off for exploration and development costs and certain capital costs, and the earned depletion allowances are major concessions to activities in that field."³¹ Nonetheless, the proposals would have eliminated many of the privileges the extractive industries had previously possessed.

³⁰ Ibid., Capters 4 and 5.

³¹ Canadian Tax Foundation, Report, 1970 Conference, op.cit., p.414.

The White Paper would have provided favourable treatment to pension plans, mutual funds, and registered retirement savings plans. For capital investment, according to Mr. Bryce, the capital cost allowances in force when the White Paper was published would be retained.

The objections to the recommendations concerning economic neutrality would be of the following sort: those favouring complete equity and neutrality would support full integration of corporate and personal income taxes, and would oppose any concessions to the resource industries; those who wished to maintain their privileges and who were ostensibly concerned with economic growth would oppose the reduction of tax incentives to the mining industry.

The proposal for some form of integration of personal and corporate income taxes was to cause great debate. Economists have not been able to find any academic justification in an equitable tax system for the presence of an absolute corporation tax. Yet they have had great difficulty in finding practical acceptance of the concept of the integration of personal and corporate income taxes. Richard Musgrave best explains the opposition to the principle of integration:

Treasuries like the corporation tax because it is a convenient way to get revenue. Labour unions like it because they think it falls on profits and makes the tax structure more progressive. Businessmen do not mind it because they tend to believe that the tax is passed on, and consider it objectionable only when management decisions are interfered with. Proponents of equity feel that in an imperfect world the tax is appropriate only as an offset to the lack of capital gains taxation. Others, not so equity minded, fear that integration

would open the door to the taxation of unrealized capital gains and prefer to stay with the absolute corporation tax...

For these and other reasons an absolute corporation tax has remained popular and continues to receive support from both liberal and conservative circles. But all this, alas, is an explanation, not a justification for such a tax. The absolute corporation tax, on balance, is not a legitimate part of an equitable tax structure.³²

Finally, the elimination of the special low rate of tax for the first \$35,000 of corporate income was to cause concern about the future of small businesses in Canada.

3. Voluntary Compliance

Mr. Benson stated his belief that voluntary compliance with the tax system is best ensured when taxpayers know that "others in similar or better economic circumstances will bear their fair share of the tax. This can only be accomplished by closing loopholes in the law, and by treating capital gains as income."³³ A second prerequisite for voluntary compliance is to have a tax system which is not so technically complicated that taxpayers will simply be unable to understand what is required of them.

The taxation of capital gains has already been dealt with in previous paragraphs. Proposals for the closing of loopholes need no real explanation except to say that they included a sharp tightening-up of regulations concerning "expense-account" living. If the White Paper proposals were implemented,

32

Ibid., p.126.

33

Canada, House of Commons Debates, November 28, 1969, p.1371.

the costs of conventions, of belonging to clubs, of yachts and other entertainment expenses would no longer be tax deductible.³⁴

Everyone accepts the principle of a tax system based on voluntary compliance. The objections to the White Paper proposals were 1) that some of them were so technically complicated as to hurt the cause of voluntary compliance and 2) that some loopholes were not loopholes at all but rather were the recognition of certain particular situations. Of course, those benefitting from loopholes wished to maintain their privileges and searched for excuses to keep them.

4. Federal-Provincial Co-operation

The White Paper stressed the need for "harmony in federal and provincial tax policies and practices. Much has been accomplished in this respect in the past generation. The proposals in this paper have been designed to permit that progress to continue."³⁵ This is not the time to argue whether the White Paper does promote that harmony. What deserves stress is the need, because of the nature of the division of responsibilities amongst the various levels of government in Canada, for there to be general agreement between the provinces and the federal government on the system of taxation that operates in the country. For this reason it would be less easy to dismiss opposition to certain proposals coming from, for example, the Governments of Quebec and Ontario than, for instance, from the Canadian Petroleum Association or any other private pressure group.

34

See White Paper, Chapter 2.

35

Ibid., p.7.

D. The Study of the White Paper

The traditional procedure for introducing tax changes in Canada is for the Minister of Finance to make such announcements in his Budget Speech. They are then enacted by Parliament in a vote in which Government members are subject to strict party discipline and in which the life of the Government is normally at stake. Parliamentary Committees usually have no role in the study of tax changes. Public discussion of the changes can only take place after they are made because the Finance Minister will never indicate prior to the Budget what changes he will propose.

At the time the Carter Report was made public, the Government decided that a major tax reform was too important to be presented in the same way as normal year-to-year tax changes. The plan was for public discussion to be encouraged and for that discussion to be channelled by a parliamentary committee, but there was some question as to whether the committee should be the House of Commons Standing Committee on Finance, Trade and Economic Affairs or whether a special Joint Committee of the Senate and the House of Commons should be created for the particular purpose of studying tax reform.

The original inclination of the Government seemed to be to use the House of Commons Standing Committee. However, in July of 1969, the Government changed its mind and decided to create a Special Joint Committee on Tax Reform. A motion to that effect was introduced and passed in the House of Commons on July 18.³⁶ But the Committee never had a chance to tackle its business

³⁶ Canada, House of Commons Debates, July 18, 1969, pp.1356-1363.

as the White Paper was not presented until the next session of Parliament and parliamentary rules do not provide for the continuation of Special Joint Committees from session to session.

By the time the White Paper was tabled on November 7, 1969, the Government had reverted to its previous position of having it referred to the Standing Committee of the House of Commons. At the same time the Government Leader in the Senate moved to refer the White Paper to the Standing Senate Committee on Banking and Commerce, and so the White Paper was to be scrutinized by two committees. The concern of this thesis is just with the operation of the House Committee and not with the Senate Committee.

The first paragraph of the White Paper states:

In this White Paper the Government of Canada places before Parliament, the Canadian people and the provincial governments its major proposals for reform of the income tax structure. The government will welcome public discussion of the proposals, particularly in the parliamentary committee considering them. Detailed discussions are also planned with provincial government representatives.³⁷

On November 28, 1969 Mr. Benson moved in the House of Commons "that the white paper entitled 'Proposals for Tax Reform' tabled in the House on November 7, 1969, be referred to the Standing Committee on Finance, Trade and Economic Affairs."³⁸ In speaking to the motion, he said that "in referring proposals for changes in the tax system to a committee of the House for

37

White Paper, p.5.

38

Canada, House of Commons Debates, November 28, 1969, p.1370.

detailed discussion and for hearings before a bill is drafted,
we are breaking new ground in Canada."³⁹

Later in his speech, the Minister of Finance reiterated his belief that the new procedure of "referring the reform proposals to a committee of the House...will permit interested Canadians to put forward their views concerning the proposed Canadian tax system and to bring to the attention of Parliament and the government particular situations in which for some reason the proposals might have anomalous results."⁴⁰ The minister stressed that the White Paper was only a set of policy proposals and that the Government was not necessarily totally committed to them:

If Canadians, including members of the opposition, can put forward ways in which these proposals could be improved, the government will be quick to adopt them. What we are bringing forward, and I have said this before, are proposals for tax reform. We are in no way bound by these proposals; indeed I have made it clear from the day they were brought forward that we want hon.members of this House and all other Canadians with suggestions to offer, to make them known for consideration.⁴¹

The debate on Mr. Benson's motion took up four sitting days of the House. Its approval was a foregone conclusion, but the point of the debate was to give members an opportunity to discuss the White Paper.⁴² There was little comment as to the role of the committee. On December 19, 1969, the motion

³⁹ Ibid., p.1370.

⁴⁰ Ibid., p.1372.

⁴¹ Ibid.

⁴² Ibid., November 28, 1969, pp.1370-1402; December 1, pp.1425-69; December 18, pp.2151-59; December 19, pp.2176-2202.

was adopted and the White Paper was referred to the Standing Committee on Finance, Trade and Economic Affairs.

This chapter has discussed the importance of tax reform; it has outlined some of the major proposals that have been made in Canada, and has shown how the Government has approached them. The referral of tax reform proposals to a House of Commons Standing Committee with apparent free rein to make whatever recommendations it might see fit on as important a matter for the structure of Canadian society as taxation seems to be a significant departure from normal parliamentary tradition. The following chapters will examine how the committee approached its task, what recommendations it made, and what its effect was on final Government policy.

CHAPTER THREE

THE FINANCE COMMITTEE: ORGANIZATION AND PROCEDURE

A. GENERAL

The House of Commons Standing Committee on Finance, Trade and Economic Affairs¹ like most standing committees is composed of twenty members with its party composition proportional to that of the House itself. Both the Chairman and the Vice Chairman of the Committee are Government members. During the study of the White Paper on taxation, there were eleven Liberals, five Progressive Conservatives, two New Democrats and two Creditistes on the Committee. The following description will be concerned with the regular members and not with those who served temporarily to replace the regulars.

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Eight of the Liberal members were serving their first term in Parliament having been elected in the general election of June 25, 1968. A ninth, Aurelien Noel (Outremont), had been elected in a by-election in 1967, and a tenth, Fernand Leblanc (Laurier), had entered the House in a by-election in 1964.

¹ Henceforth referred to as "the Committee" or "the Finance Committee."

² Barnett Danson (York North), Alastair Gillespie (Etobicoke), Robert Kaplan (Don Valley), P.M. Mahoney (Calgary South), Ray Perrault (Burnaby-Seymour), John Roberts (York-Simcoe), Jacques Trudel (Bourassa), Ross Whicher (Bruce).

The only real parliamentary veteran on the Liberal side was Committee Chairman Gaston Clermont who had represented Gatineau since 1960.

Eight Liberals came from wholly urban constituencies - three from Toronto, three from Montreal, and one each from Calgary and Vancouver. A ninth, John Roberts, came from a semi-urban riding (York-Simcoe) near Toronto; the other two members represented somewhat but not entirely rural constituencies (Gatineau in Quebec and Bruce in Ontario).

To deduce social philosophies of members from career descriptions in the Parliamentary Guide is at best a highly risky enterprise, but it remains possible to speculate on certain tendencies. The Liberal membership was composed of two business executives, including Committee Vice-Chairman, Alastair Gillespie, two chartered accountants, one advertising and public relations counsel, four small businessmen, one lawyer (another lawyer is included as a business executive), and one academic and former foreign service officer. What can be said without fear of contradiction is that an outpouring of excess radicalism would have been surprising from the Liberal members of the Committee.

While the Liberal members for the most part were new to the House of Commons, they included some of the more promising Government backbenchers. Indeed, four were appointed parliamentary secretaries shortly after the Committee produced its Report on the White Paper and at least two others appear destined for more than just backbench careers.

The Progressive Conservative membership on the

Committee was made up of three veteran parliamentarians and two newcomers. Amongst the old-timers were Marcel Lambert (Edmonton-West), a former Speaker of the House, a one-time minister, and at the time of the study of the White Paper, the Finance critic of the Official Opposition; Hugh John Flemming (Carleton-Charlotte), a former minister and a former Premier of New Brunswick; Robert McCleave (Halifax East-Hants), a parliamentary secretary during the last year of the Diefenbaker Government. Finally there were two new members from rural Western constituencies, Gordon Ritchie (Dauphin) and Cliff Downey (Battle-River). The five Tory members were real "small c" conservatives and were deeply committed to the virtues of free enterprise, individual initiative, private property, etc. Needless to say they were opposed, from the start, to the philosophy of the White Paper.

The two New Democrats were Max Saltsman (Waterloo) and John Burton (Regina-East). The former, first elected in 1964, was the Finance critic of his party, and the latter, first elected in 1968, was an economist who had been an advisor in the early 1960's to the then CCF Government in Saskatchewan. Both men were committed to extensive tax reform along the lines advocated by the Carter Commission.

The two Creditiste members, C.A. Gauthier (Roberval) and Henri Latulippe (Compton) were first elected in the Caouette wave in 1962. Neither played much part in the Committee study, perhaps because their primary concern as Creditistes was monetary reform and not tax reform, or more probably because they never

succeeded in learning about the intricacies of taxation. Whatever the reason, their views had such a negligible effect on the final outcome that they do not merit treatment here.

Apart from the New Democrats and one or two of the Liberals, the Committee was made up of men with a conservative orientation. There was a strong likelihood that the primary concern of the members would be with incentives to growth, with small business, and with the problems of the so-called middle-income group. Only after that would there be concern for equity, neutrality, and the low-income earner.

Insofar as a taxation system reflects the social values of a society, the philosophy of the Committee members is very important. But taxation involves more than social philosophy; it is a very complex technical subject. The designing of a system of taxation requires the politician whose job it is to state the social values that he would like to see encouraged; it also requires the lawyer, the economist and the accountant to state whether such a system is technically feasible and to examine the consequences of any particular proposals.

On the whole the Committee members did not possess sophisticated technical knowledge in the field of taxation. There is a thin line to be drawn between the advantage of approaching a subject with a fresh and uncluttered mind and the considerable disadvantage of being ignorant of the subject with which one is dealing. The Committee, thus, had to educate itself about the intricacies of taxation so as to be able to produce a reasoned and technically competent report. As well, the Committee had

to serve as a channel for public participation in policy-formulation.

The way in which the Finance Committee organized itself for the debate on tax reform is of considerable significance for the manner in which Parliamentary Committees should deal with important issues of public policy. This is an age in which problems are too complex for there to be simple solutions. Yet the solutions to many problems are not to be found only by technocrats. Ideology and social values still have a considerable role to play and a means must be found to integrate social values into the solution of technically complex problems. What type of political input is possible and what type of public participation in policy formulation is encouraged are matters of the gravest importance. It is in this area that it has been suggested that Parliamentary Committees may have a part to play. The Finance Committee's role in the process of tax reform may provide some clues for the future.

B. ORGANIZATION

This section will deal strictly with how the Committee organized itself for the study of the White Paper. The substantive issue itself will be the subject of a later discussion.

On December 2, 1969 the Committee met to decide how it would go about studying tax reform once the White Paper was referred to it by the House of Commons. The Committee decided to give organizations thirty days from the time the White Paper was referred to the Committee to submit notice of intention to file briefs, and then set March 1, 1970 as the deadline for the

submission of briefs to the Clerk of the Committee (This deadline was later extended to May 15). As well, it was agreed to hear witnesses from the Government and the Civil Service during the time the private sector was preparing its submissions.

A special sub-committee was established to study the question of providing expert and clerical staff for the Committee, and a second sub-committee was mandated to prepare a press release explaining the way in which briefs from the private sector would be handled.

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The press release was issued on December 19 from the office of Chairman Gaston Clermont. It requested organizations to submit thirty-five copies of their briefs by March 1, 1970 and urged that where possible they be submitted in both official languages. As well it asked for a two or three page summary to be included with all briefs. The press release made clear that the Committee was not bound to hear all briefs submitted to it, but would decide for itself whether "an organization or individual submitting a brief [would] be invited to appear or whether his brief [would] be considered by the Committee simply in written form."⁴ This latter point is not unique to the Finance Committee for all Parliamentary Committees which receive briefs exercise discretion as to whom they will hear.

The briefs were to be circulated on a confidential basis to Committee members and the Committee staff in advance,

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Press Release from the office of Gaston Clermont, M.P. Gatineau, Friday, December 19, 1969.

4

Ibid., p.2.

but they were not to be made public until they were presented before the Committee. The press release also stated that witnesses before the Committee would not make opening statements, but rather would be subject immediately to questions from members.

It was on January 15, 1970 that the Committee began its study of the White Paper. On that day there was a lengthy and interesting debate on a motion that the Committee should request the permission of the House to hire expert and clerical staff. Max Saltsman (N.D.P.) argued that staff should be assigned to each caucus rather than to the Committee as a whole. His position - and indeed the whole debate - is important in the way it focuses on the problems of a Parliamentary Committee which is dealing with a very contentious and technically complex issue of public policy:

Mr. Saltsman: My experience with committees is that getting staff for a committee is a pretty useless operation. I think the staff is needed for the various parties. We are dealing in an atmosphere in which there are specific points of view that have to be developed. There is no such thing as a group point of view on these things.

There are specific points of view and with the greatest respect to those members of the Committee who do not see the argument as I make it I would like them to look at it again because what is really needed in my opinion is assistance to each group of people on this Committee, to each caucus, so that we can make our examination from the particular point of view or the particular philosophy of that group. If you get assistance for the Committee who do they assist really? The Chairman needs some assistance and I would certainly be in favour of seeing some expert help available to him, but how do you assist a whole committee when we are all looking at it from a different point of view? You have one group of people who are criticizing the White Paper because it is going to shatter the free enterprise system.

You have someone like me and others like me who say the White Paper is a put-on; there is nothing to it. How are you going to hire staff that is going to reconcile these two points of view? You cannot really do it in my opinion and have any meaningful kind of debate. Therefore, I would be opposed to the hiring of staff for the committee if there is not also adequate staff made available to the various caucuses represented on this Committee...

Mr. Downey:

I would have to support Mr. Saltsman's view completely on this with regard to an allotment of funds to the parties for their own research because I have great difficulty in the back of my mind with not thinking that a Committee research staff might very well be a government research staff that might very well be inclined to develop one side of the situation. I certainly could not go along with that at all.

The Chairman:

...I sought guidance from the Clerk of the House of Commons. I understand on an unofficial basis, and I stress that, on an unofficial basis, the Clerk of the House of Commons spoke with the Speaker and some lengthy research was done on retaining experts on a party basis. Here is what I was given:

'In the annals of the Canadian Parliament, no precedent can be uncovered to support the premise that special staff has been engaged for the purpose of assisting any one group in a Committee. A Committee is pure and simple, a unit under our parliamentary system, and no distinction has ever been made in relation to one or several of the members thereof.'

Mr. Saltsman:

Mr. Chairman, I think it is quite correct. The communication you have is quite correct in asserting that there is not a precedent for this. I think it is about time we established a precedent. It is about time we were realistic about what goes on in these Committees. There are political parties in these committees with different points of view. One of the reasons that the Committee system in the House of Commons has never been effective and never done its job is because of this little piece of fiction that we are all nice boys and we are all thinking along the same lines and we are all going to do the same thing. It just is not so.

We are different kinds of people representing different points of view and it is about time we faced up to it. Then the Committee system will be far more effective than it is now and will do a much better job of examining and bringing out these points of view than it now does. It is for those reasons, Mr. Chairman, and through you, to the members of this Committee, that I ask you to face up to this problem and make the change now. I know it has not been done in the past but that is no reason why we should not do it from hereon...

Mr. Gillespie: Perhaps I might start by saying that I think Mr. Saltsman may have created some bogies that do not in fact exist. It would seem to me that we have got to try and organize ourselves in such a way that something which appears to be almost unmanageable can be managed but within some sort of a time frame. We have an enormously complex subject here. We are going to have to organize our hearings as far as we can around the kind of end result we want, which presumably is a report. We are going to have to, if we can, so structure our hearings that we can deal with parts of the report and move forward. Not with the thought that we have finished one part but only that we may have perhaps reached some tentative conclusions or that there has been sufficient exposure in one area and we can move forward. It is this kind of approach to the problems, the way we organize ourselves and how we view this question of staff which I think is important.

The press release to the general public on December 19 indicated that all those making submissions would be asked to provide a two or three page summary. It is important that we have someone who is experienced in the tax field just as soon as we can get him, as a servant to the whole Committee, who will first receive the briefs after they have been acknowledged by the Clerk. Secondly, he will review the submissions, either by himself or with the assistance of others working both part-time and full-time, first, to see whether the summary itself is consistent with the White Paper and secondly, to evaluate the technical argument if the technical argument is any way dubious.

Now we are talking here about the area of technicality, we are not talking about policy, and I think that all of us here, with perhaps a few exceptions, have not the technical depth we require

in the tax field. I think that this is something that we need and I think that if we are going to be able to limit our questioning in a way which will get us through, as I say, within some sort of perceivable time frame then we are going to have to have the technical backup to assess and prepare these papers so that we do not have to read the whole paper unless we wish to do so - we can work from the summaries and the technical evaluation. It is the kind of assistance which I think that we have to secure right now before it is all spoken for.⁵

The Committee accepted the views advocated by Mr. Gillespie and staff was hired to serve the Committee as a single entity. Nonetheless, a procedure was developed to give informal staff assistance to the various caucuses. What happened was that members of each caucus were able to choose from amongst the Committee staff some advisors with whom they could consult when they wished on a confidential basis. This procedure worked to the satisfaction of the Committee members.⁶

Between February 10 and March 24, sixteen lawyers, accountants and economists were hired on a full-time or part-time basis to serve as advisors to the Committee. The senior advisor was Mr. Ronald Robertson, Q.C., a Toronto lawyer and a former Director of the Canadian Tax Foundation. The number of expert staff hired by the Finance Committee for its study of the White Paper was unprecedented for a Standing Committee of the Canadian House of Commons.

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The role of the Committee advisors can be divided into four categories. First, they analyzed and summarized the

⁵ Canada, House of Commons, Standing Committee on Finance, Trade and Economic Affairs, Minutes of Proceedings, January 15, 1970, pp.12:68-12:73. (Henceforth the Committee minutes will be referred to as "Proceedings").

⁶ Information obtained in personal interviews.

⁷ Information obtained from personal interviews.

briefs that were submitted and suggested questions which members could put to witnesses. Second, they prepared background papers for the use of members on certain important issues. Third, the advisors were available for informal consultation with Committee members. Fourth, when the public hearings were over, they met for a day in camera with the Committee and gave their views as to what they believed the Report should contain. The first draft of the Report itself was prepared by Mr. Robertson and some of his colleagues in close consultation with the Chairman. The final chapter of this thesis will be devoted partially to an examination of the role of the expert staff of Parliamentary committees.

In order to be able to carry on an intelligent and constructive dialogue with the private sector, the Committee had to be fully conversant with the details of the White Paper proposals, with their implications, and with the reasoning behind them. This background information was provided to the Committee in three ways.

First, there were the appearances before the Committee of the Minister of Finance and of two of his senior Departmental officials. Second, the Committee agreed on March 3, 1970 to accept the offer of the Canadian Institute of Chartered Accountants "to attend the Committee for a day for the purpose of providing a programme of slides, papers, and other information on the White Paper on tax reform." The presentation which was of a technical and non partisan nature was made on March 17.

Third, the Committee attended the Conference of the Canadian Tax Foundation on the White Paper in Montreal from March 23-25.

The first stage of the work of the Committee was to receive explanations of the White Paper and to become familiar with its proposals and with the rationale behind it. The second stage was to encourage and to channel a well-informed public debate on the merits of the tax reform proposals. The final stage resulted in the production of a report.

The organization of the second stage was an exercise in, as Mr. Gillespie had said, managing the unmanageable. By April 9, Mr. Clermont announced that the Committee had received 950 notifications of intent to submit briefs as well as approximately 500 letters commenting on the White Paper.

Faced with this massive onslaught from the outside,⁹ the Committee resolved to divide itself when necessary into two or more sub-committees for the hearing of evidence. Furthermore, the Committee asked (and subsequently received) the permission of the House of Commons for its sub-committees to travel outside of Ottawa to hold hearings in the capitals of the four Western provinces and in three of the four Atlantic provinces.

The full Committee began hearing witnesses from the private sector on April 23. By June 2, the Committee broke down into two sub-committees, called A and B, which met simultaneously throughout the month of June in order to expedite the hearing of briefs. In the latter part of July, one of the sub-committees

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Ibid., April 9, 1970.

travelled to the Western provinces while the other heard submissions in the Atlantic provinces. The last briefs from the private sector were presented in Ottawa on July 31, 1970.

The normal procedure during the hearings was for witnesses to make no opening statements at all, but rather to be subjected immediately to questioning from committee members. Each member could ask questions for twenty minutes; once his time had expired, he had to wait for his colleagues to finish before he could begin again. Many of the questions had been suggested to the members in advance of each session by the Committee's advisors.

In retrospect, the public hearings proved to be less than a total success. One problem was that witnesses were not subject to any effective cross-examination. There were two reasons for this: First, a member could hardly hope to develop a coherent line of analysis in twenty minutes. It was in the interest of a witness to take as long as possible to answer an embarrassing question and thus eat up the time of a probing member, for the witness knew that the next member to ask questions might pursue an entirely different line.

The second reason that there was no effective cross-examination was due to the technical complexity of taxation. Members on the whole were not expert enough to be able to challenge some of the economic assumptions of the briefs they had before them. The Committee staff was not allowed to pose questions to witnesses; yet it was the staff which had the technical knowledge which could have been used to force the witnesses to

justify the premises on which they based their presentations. This problem will be dealt with more fully in the concluding chapter of this thesis.

The organization of the private sector hearings gave rise to a number of problems, some of which are of importance for the Committee system as a whole. The one recurring element in most of the difficulties was that of time. But it is not a problem that can easily be dismissed for legislators must be able to allocate their time efficiently if they are to fulfil whatever task they are tackling. In the case of the Finance Committee, the White Paper was referred to it on December 19 and the Chairman was under considerable pressure from the Government to report back to the House of Commons at the latest by the end of the following September. In other words, the Committee had nine months in which to study tax reform.

The first major difficulty involved the scheduling of the public hearings. It will be recalled that in the December 19 press release, the Committee had stated that it reserved the right to decide which submissions would be heard orally and which would be accepted in written form only. If the function of public hearings in a matter of great controversy is to enable individuals or organizations to present their views, to educate the public on the issue at hand, and to educate the Committee members so that they can best discern the national interest, and if education in a matter of great public controversy requires the imparting of knowledge about all sides of the issue involved,

then oral submissions should be arranged in such a way as to promote all of the above-mentioned goals.

Ideally, all briefs should be received and analyzed by the research staff which might then inform the Committee as to which are most useful and most representative. The research staff could also make suggestions as to which subjects had been inadequately covered. The Committee could then invite those organizations who had presented the best briefs to appear before it and could also invite outside experts to testify on some areas that the briefs had not covered. Invitations might also be extended to certain organizations because of their representativity in society regardless of the quality of their submissions. In this way the public hearings could be made to serve their purpose.

The scheduling of the briefs to be presented to the Finance Committee fell far short of the ideal. Due to conflicting time pressures - the haste with which Committee members wanted to begin public hearings and the need of organizations for time to prepare their submissions - many briefs had not reached the Committee before the public hearings began. Therefore, the Committee scheduled its hearings not on the basis of what the briefs contained, but rather on the basis of what the briefs might contain. It turned out that the anticipation of a good brief did not always guarantee one.

Because the content of the briefs often was not known before organizations were asked to appear, it became

politically very difficult to pick and choose between different organizations. On what grounds could the Committee justify inviting one oil company, for example, and refuse to hear a second? Because so many of those who wanted to make oral presentations were allowed to do so, time did not permit the extending of invitations to outsiders to testify on matters poorly covered by the witnesses who did appear.

It turned out that the vast majority of the submissions came from precisely those groups who would be hardest hit by the implementation of the White Paper proposals. They were the ones who had the resources which made them capable of mounting effective protests. Those who would benefit most from the White Paper and from changes which would have brought it more into line with the recommendations of the Carter Commission were mainly those who do not have the capacity to mount a well organized lobby. But there are many experts in public finance who might have explained reasons for extensive tax reform if they had been invited to testify before the Committee. The idea of calling for testimony from expert witnesses - as is sometimes the practice with other Parliamentary Committees - was given serious consideration, but was abandoned principally because of a lack of time. Since they were not invited and because the Committee scheduled its hearings the way it did, there was a serious lack of representativity in the presentations before it. The results become apparent in the final Committee Report.

A second and less serious, but still important problem faced by the Committee was that of a conflict between the

scheduling of Committee meetings and the scheduling of House business of interest to Committee members. Such a conflict arose on June 11 and was brought rather forcefully to the attention of the Committee by Mr. Lambert:

Mr. Lambert:

Mr. Chairman, before you start questioning the witnesses, and I apologize to the witnesses for having to make this intervention, I want to raise a question of privilege on behalf of the members of this Committee...both in this sub-committee and the other, that, as a result of the decision of the Government House Leader, there has been scheduled in the House for today, Bill C-4 at report stage. That is possibly one of the most technical bills that this Committee has ever had to deal with. We had many, many sessions with government officials, briefs with the outside and yet today when we have important briefs and three sessions of this Committee and the other sub-committee, the Bill is called for discussion in the House. Now, either the members are going to have to withdraw from these sessions here in order to participate in the discussions at the Report stage in the House because there are several amendments proposed by members from both sides of the House on this Committee, or else we are going to abandon the debate in the House of Commons in order to pay ordinary courtesy and to listen to the briefs that we have asked people to present to this Committee.

The thing is nonsensical...The problem was outlined in the House yesterday. I look at the list today, there are nine Committees sitting for a total of nineteen sessions. What are we going to get, legislation by default? After all, the government members are being kept busy in committees, so they will not be appearing in the House to interfere with any Minister wanting to put his legislation through, and the Opposition, well so many of them are going to be tried to be pulled away by insisting that they deal with matters in committee.

It is a fine dream to have all legislation go out to committees and we were told that this was going to be the way whereby the specialist members would be able to deal with the matters,

examine the witnesses, and bring the recommendations back to the House. I will warrant that there is no one who has read the reports of the Finance Committee with respect to Bill C-4, no one, and yet, that is to be dealt with intelligently in the House this afternoon.

Mr. Chairman, I am just making a protest and I apologize to our witnesses, but I am making an official protest on behalf of the members on both sides of the House. This is a nonsensical way of proceeding. Let us not have any vaunted claims for the efficiency of the Committee system in improving the deliberations on government legislation.¹⁰

The Committee Chairman said that he could do no more than bring Mr. Lambert's question of privilege to the attention of the Government House Leader. The importance of the issue raised by Mr. Lambert is very clear and does not require any further elaboration.

A third problem faced by the Committee was that posed by the need to hold meetings during the summer if a Report were to be ready for presentation to the House of Commons by the end of September. Conservative members of the Committee were particularly opposed to the idea of meeting during the summer. Their reasoning was twofold:

The first set of reasons was unstated. Basically, the Conservatives wanted to delay tax reform and, thus, if summer hearings were not held, the Committee would have to postpone the date of presentation of its Report. This was simply a political manoeuver and has no real significance for the committee system.

11

The second set of reasons was more important and,

¹⁰ Ibid., June 11, 1970, pp.59:10-59:11.

¹¹ Ibid., June 23, 1970, pp.70: 107-70:127.

even if not entirely convincing, deserves some consideration. The argument was that members of parliament need to use the summer months to attend to their own businesses so as to supplement their income, to spend time with their families, and to attend to their constituencies.

The recent pay raise voted to members of parliament may take care of one of the objections to summer meetings. The family problem is no doubt a difficult one on a personal level for all members. Obviously some holidays are required but this in itself should not rule out all summer work. The really key issue is that of attending to constituency business.

It is questionable whether a member of parliament can spend all of his time in Ottawa without to some degree losing contact with what is going on in the country. If representative government is going to work as it should, then members must have the occasion to spend some time in their constituencies. Before committees decide to make frequent use of summer hearings, something must be done to ensure that members will have concentrated periods of time during the year when they can attend to their ridings. This is especially true for members from the east and the west who do not have the same chance as their Quebec and Ontario colleagues to make weekend visits to their constituencies.

The final two points to be discussed under the rubric of Committee organization involve the role of the chairman and the relationship of the Committee to the Government.

The function of Parliamentary Committee Chairmen

in Canada has never been clear. On the one hand, in the past, they have been criticized for being overly partisan and for acting as hatchetmen for the Government. It is evident that a partisan chairman cannot create a good working atmosphere. However, on the other hand, Committee chairmen are appointed in practice if not in theory by the Government and such appointments are considered to be either stepping stones to greater heights or consolation prizes. As long as this is the case, it is difficult to imagine that a Chairman will behave exactly as Mr. Speaker. This is even more true in that the Chairman likely will consider himself to be a full member of the Committee and as entitled as other members to ask questions of witnesses.

In the case of the Finance Committee, Mr. Clermont performed a difficult task very well. He attempted at all times to be impartial and concentrated on maintaining order, on running efficient sessions, and on not allowing members to take too much time in questioning witnesses. His task was to maintain a minimum of antagonism and a maximum of good humour, and he did this very well. At the same time he was able to participate in the questioning of the witnesses.

There was however one occasion when the impartiality of the Chairman was questioned. It occurred during the debate on June 23 on the schedule for summer hearings. Mr. Clermont had insisted on the need to hold summer hearings because he wanted the final report to be ready for presentation to the

¹² W.F.Dawson, op.cit., p.209.

House of Commons when it returned on October 5 from its summer recess and before prorogation of the session which was expected a few days later. The Chairman's viewpoint on this issue was contrary to that of the Conservative members, and the following exchange took place:

The Chairman: ...Well, Mr. Lambert, each time a member of the party in power makes a comment, you have the same reaction.

Mr. Lambert: Yes, but I'm going to say something, Mr. Chairman. You are the Chairman of this Committee, and in this respect you are in the same situation as the Speaker of the House. I consider you to be the leader of the party in power when you argue with members; you immediately take the defensive. I didn't say so the last time, but I will say so now.

The Chairman: Mr. Lambert...

Mr. Lambert: When we come to meetings like this, I protest, and I say that you are not impartial.

The Chairman: Mr. Lambert...

Mr. Lambert: Because you defend the government's policies.

The Chairman: Mr. Lambert, I have never considered myself the equal of the Speaker.

Mr. Lambert: The regulations say that you are.

The Chairman: All things considered, I have never accepted the fact, Mr. Lambert, that only a member of the Opposition can be considered impartial in a Committee. I have never accepted this and I never will accept it.

Mr. Lambert: That is not what I am saying, Mr. Chairman. I don't pretend that I am impartial, but the Chairman should be.

The Chairman: Mr. Lambert, until Mr. Saltsman asked me for my comments, I had abstained from making any. He asked me for my opinion, and I gave it. I have no regrets. If you think that somebody else should chair this, then I think it is up to you to decide. But I think that so far I have proved

my ability to impartially preside over a Committee. But if you think that it would be in the interests of the good conduct of this Committee, and if it would make you happy, I could resign immediately and give the responsibility to someone else, but not to a member of the Opposition.¹³

In the overall context of the Committee hearings, the above exchange of opinions was unimportant. Most of the time there was an atmosphere of harmony operating within the Committee. Nonetheless, it does point out the type of unpleasantness that can exist if a Chairman does not appear to be entirely impartial.

A final point to be mentioned is that Mr. Clermont was not a specialist in the field of taxation. He had no university training and worked for years as an administrator. Mr. Clermont is noted for his capacity for hard work and self-discipline and for his ability to surround himself with competent advisors. This stood him in good stead and enabled him to be a very successful chairman. He proved that there are considerable advantages for a committee to be chaired by a non-specialist, but by one who always does his homework. Mr. Clermont allowed members great leeway and never pressed his own point of view except in the question of timing. Even when it came to setting time limits, Mr. Clermont was reasonable and never steam-rollered the Opposition. While they may have complained, their complaints were more tactical than fundamental.

The issue discussed above of the impartiality of the Chairman is connected to the question of the relationship

¹³ Proceedings, June 23, 1970, pp.70: 122-70: 123.

between the Government and Committees and more particularly between the Government and its own members on the Committees. In Chapter One, the problem of reconciling Cabinet Government to independent committees was discussed and it was suggested that committees conceivably would be freer on issues on which the Government has no definite policy than on Government legislation or estimates.

In the case of tax reform, the Government had no definite policy, but it appeared to be at least somewhat committed to the White Paper. There is no doubt that a complete rejection of the White Paper by the Committee would have looked like a repudiation of the Government. Therefore the Liberal members of the Committee could not in their role as Committee members forget entirely that they were also part of the Government caucus. It¹⁴ appears that they had fairly wide room to manoeuvre, but that there were certain private meetings between some of the Liberal Committee members and the Minister of Finance in which Mr. Benson did set certain limits as to what would be acceptable to the Government in a report. How much Mr. Benson attempted to restrict the Liberal Committee members cannot be accurately determined, but it does not appear that his restrictions were very severe.

It is easy to criticize the Minister of Finance for not allowing complete freedom to the Committee. But it must be recognized that, as Minister of Finance, he felt the responsibility for introducing eventually what he believed would be the best

¹⁴ Information obtained from personal conversations.

possible tax legislation. In order to do so, he wanted to receive the widest possible range of advice from Parliament and the people. However, if he believed that certain advice might be offered which in the long run would cause more harm than good, then intervention on his part is understandable. In fact, if he stood back and did nothing, he would later have been subject to criticism for not having intervened when it might have done some good to have done so.

Even if the Committee, or at least a majority of it, was to some (unknown) degree restricted by the Government as to its final report, it was completely free to proceed with its study in any way it saw fit. The fact that the public debate which it stimulated was not as representative of the opinion of the country as it might have been is a condemnation of Committee organization and not of Government interference.

Given the nature of the parliamentary system, some Government interference with Committees is inevitable even - and this is not yet proven - if it can be shown to be undesirable. It is impossible for the same members to be hotly partisan one day at a party caucus and then to forget their role as partisan politicians and be completely impartial the next day at a Committee meeting. Committees should aim for as much independence as possible, but it should be recognized that this will come only in degrees and probably only in cycles, that is, more independence and non-partisanship immediately following an election and less of both as a new election is approaching.

C. THE TESTIMONY

A general description of the organization of the Committee in its study of tax reform is but a first stage in an understanding of how the final Report was produced. The second stage involves a discussion of the type of evidence that was heard by the Committee. The concern here will be with the significance and general nature of various types of testimony and not with the technical details of the submissions themselves. For purposes of analysis, this section will be divided into four parts: the initial Department of Finance hearings; the Private Sector; the Provincial Governments; and the final Department of Finance hearings.

It will be recalled that the purpose of White Papers is to encourage informed public participation in the formulation of policy on major issues. The following pages will examine the type of participation that was encouraged and its significance.

1. Department of Finance

Before the Committee could meet the private sector, it presumably had to be fully conversant with the details of the White Paper proposals, with the philosophy behind them, and with the context in which they were presented. In order to achieve this objective, the Committee met for two days with Finance Minister Benson and for six days with two senior officers of the Department of Finance, Deputy Minister R.B. Bryce and Senior Tax Advisor J.R. Brown.

15 It is noteworthy that the two meetings with the Minister took place before the Committee had engaged an expert staff to help it with its study. The questions asked of Mr. Benson reflected a lack of familiarity amongst the members with the White Paper. There were a great many questions involving details which, while important in themselves, were not of fundamental significance to the proposed tax reform.

There was very little discussion of the proposal for the integration of personal and corporate income tax. There were no questions on the White Paper proposals regarding the extractive industries and there was a very limited debate on any potential conflict between equity and economic growth. Even the discussion on capital gains taxation touched more on details (especially the gain from the sale of a house) than on the motivating factors behind the proposals.

The three issues which seemed to pre-occupy the Committee members most were the effect of the White Paper on small business, the increased burden of taxation to be placed on those earning between \$10,000 and \$25,000, and the problems arising from the proposal to tax every five years the accrued but unrealized gains on shares of widely-held corporations. Both Liberal and Conservative Committee members indicated that these issues were of considerable concern to them.

In general, Mr. Benson's initial appearances before the Committee gave members a chance to question him about various aspects of the White Paper that particularly bothered them. But there was no real attempt made to expose in any

systematic way the basic issues involved in tax reform, the alternatives available to the Government, and the reasons why some were accepted and some were rejected.

Governments are frequently criticized either for ignoring committees or for deliberately hindering their work. In the case of the Finance Committee, Mr. Benson made clear his intention of following closely the progress of its work and of helping it where possible:

I will be represented by one of my officials, at all the meetings of the Committee, so that I will keep very closely in touch with what the Committee is doing. I offered this morning to appear before the Committee as frequently as the Committee wants to have me come, with regard to particular items that may arise. I believe, as well as you, that there should be the closest co-operation between the Government and the Committee.¹⁶

The attitude of the Minister towards the Committee was wise in a political sense for he had stressed too often the importance of the Committee's work for him to risk being accused of ignoring its deliberations; his attitude was also wise in that it only made sense that if White Papers were to provoke discussion and debate that the Government should follow closely and participate in the public discussion and debate.

The second part of the testimony from the Department of Finance came from the two senior officials who were most responsible for the actual writing of the White Paper. The hearings at which Mr. Bryce and Mr. Brown appeared were interesting and informative and also significant for committee procedure.

¹⁶ Ibid., January 15, 1970, p.12:56.

Normally the function of an official testifying before a House Committee is simply an explanatory one. He will interpret the technical implications of particular proposals but he leaves the philosophy of a policy to the politicians. In the case of the White Paper, the officials, and Mr. Bryce in particular, went well beyond their normal roles.

There were several reasons for the departure from normal practice by the public servants. The most important was the exceptionally complicated nature of the White Paper itself. It is difficult in taxation to separate technical points from general social philosophy. The Committee members had a great deal to learn about taxation and it was in part the function of the officials to teach them. For the civil servants to explain the proposals meant first of all that they had to outline the deficiencies of the present system, then point out some of the available alternatives, and finally show why the White Paper proposals were made. It was inevitable that their explanations would mix policy and technical details for, in fact, the two are inextricably linked.

Second, the Committee recognized, implicitly at least, that policy is determined by civil servants as well as by ministers even if the final say belongs to the minister. Therefore, the Committee members were prepared to go to the source of the White Paper and were willing to abandon the fiction that the only function of Messrs Bryce and Brown had been to act as draftsmen and not at least to some extent as instigators of policy.

The third reason that the civil servants - and especially Mr. Bryce - went beyond the normal function of officials before Parliamentary Committees can be attributed to the personality of Mr. Bryce. His great wisdom and experience are so universally recognized that members took every opportunity to benefit from them. The Committee recognized his special position and willingly accepted his over-stepping what are perhaps the normal boundaries for an official.

To illustrate Mr. Bryce's role before the Committee, there was one time when Mr. Downey asked if the proposed tax system was not directly opposed to trends in the United States towards lower taxes. Mr. Bryce explained in length that Canadians must pay higher taxes because of lower productivity and because of a desire for a higher level of social services. His answer combined policy with the technicalities of a taxation system:

If we are going to have this, what we have to do is decide in what form we will get a higher tax than that of the United States, if we want it. We are proposing here to take a part of it in the taxes on the middle income levels. There is no doubt about that. Not a great deal more, not an impossible amount more, but we think we will have here a better and more logical and fairer income tax than that in the United States. We will also have higher sales taxes, probably higher taxes on real property than in the United States. We will have a different kind of mix of what you get by living in Canada than what you get by living in the United States. I think you have to look at all of that and say, 'should Canada aim at this sort of combination and not just an income tax?' If we are going to keep income tax low by comparison, low or limited by comparison with the United States, then we are going to have to have either less benefits

from the public sector, or we are going to have to have less social security than we want to have, or we are going to have to have higher real property taxes or sales taxes or the other major things that we get. I do not see any alternative and that is just a matter of arithmetic, not policy, except to choose which way we are going to have it.¹⁷

After Mr. Bryce completed his answer, Mr. Downey commented, "I would say with a great deal of admiration, sir, that you possibly should have been a politician rather than a public servant."

And the Chairman added, "Mr. Downey, perhaps the main reason is that Mr. Bryce has been around politicians so long now he is¹⁸ speaking like some of them."

The testimony from the two officials came over an extended period of time. They first met the Committee on January 20 and 29 and then again on April 7, 9, 14 and 16. Between the two appearances, the Committee had spent most of its time on business other than the White Paper, although it had met on March 17 to hear the presentation of the Canadian Institute of Chartered Accountants and had travelled to Montreal from March 23-25 for the Conference of the Canadian Tax Foundation.

The first two days of hearings with Mr. Bryce and Mr. Brown were devoted to general discussion of the White Paper. Many of the questions asked, especially on the first day, were of a very technical and detailed nature about, for example, the¹⁹ valuation of basic herds of cattle. But there were good questions on capital gains taxation, on integration, on the distinction

¹⁷ Ibid., January 20, 1970, pp.13: 17-13:18.

¹⁸ Ibid., p.13:19.

¹⁹ See for example, Ibid., p.13:16.

between closely-held and widely-held corporations and on the effects of the White Paper on small business.

The interesting part of the first two days of discussion with the officials seemed to be a distinct conservative bias on the part of some of the Liberal members. For example, in talking about the capital gains tax proposals, Mr. Wicher had the following comment:

Do you consider that it is right that we should wallop our Canadians? This is a great country, I agree. We have got much more social welfare. The air up here is pure. But, by George, some of these taxes that are being suggested make the air not quite so pure.²⁰

Mr. Gillespie seemed concerned with the elimination of the dual rate of tax for corporations:

I do not think we should look at the first \$35,000 as a needs test for a small business. I think it is very much more an incentive, a carrot, something which is going to assist growth rather than a reward to a man for just being small. So I am troubled by the distinction between the two companies, between the two types [closely-held and widely-held]. I am also troubled because in the transition some small business are going to be hit rather hard.²¹

The second part of the testimony of the officials was to be concerned with a chapter by chapter study of the White Paper. The hearings in April took place after the Committee had engaged its staff. Therefore many of the questions asked by the members had been suggested to them by their advisors.

The hearings were marked at the beginning by interesting and important debate on the question of tax exemptions

²⁰

Ibid., January 29, 1970, p.16:24.

²¹ Ibid., p.16:36.

22

versus tax credits and on the effect of the proposed new tax rates on taxpayers in the \$10,000-\$25,000 a year income bracket. However, after the general discussion of Chapter Two (The Individual and Family in Tax Reform) was terminated, there was a paragraph by paragraph analysis of it. This quickly resulted in the Committee's getting bogged down in unimportant details such as what type of baby-sitting expenses would be a legitimate part of child-care costs.

23

There was a day and a half session on Chapter Three (Capital Gains as Income) which included some very good debate on the philosophy of the Government proposals. It was a session which forced the officials to bring forward the assumptions behind the proposals. They were enabled to explain what effect they foresaw if the capital gains tax were to be implemented. There was one particular exchange in which Mr. Downey expressed considerable scepticism about Mr. Bryce's economics:

Mr. Downey: I would just like to get your attitude on one principle. Do you feel that increased taxes or increased capital gains tax will destroy the initiative of a great many businessmen today? Or, do you feel that actually some people are oriented towards production and that they will produce regardless of the load, more or less produce the same amount anyway because they are oriented this way?

Mr. Bryce: Sir, I think it is reasonable to infer that the Minister and the government would not have put forward these proposals if they felt that it was going to stifle enterprise, or stifle production. Obviously there are some people who are going to be discouraged by the fact that they can no longer accumulate and realize on capital gains tax-free. It has been nice to

²² Ibid., April 7, 1970, pp.30:8-30:37.

²³ Proceedings, April 9, 1970, pp.31:20.

have had that possibility but it was our judgment in the Department, and it was the government's judgment, that we could introduce capital gains taxes without a severe economic effect on enterprise.

Mr. Downey: You do feel largely that people will produce anyway?

Mr. Bryce: Yes.

Mr. Downey: I notice you made the statement, I believe you made it in Committee or some place, that you felt with regard to taking increased taxes that savings were savings regardless of whether they were in the hands of the people or in the hands of the government. I worry about this attitude to some extent. I worry that maybe the Department officials have not been that close to the businessman or the businessman's mind. I notice Mr. Bryce you have been with the Department within the Civil Service since about 1938. Could I ask you, Sir, what year you completed your formal education?

The Chairman: I do not think I will accept that question, Mr. Downey.

Mr. Downey: Is this not relevant? I would just like to know the business experience of the witness.

The Chairman: I am sorry. I do not think that Mr. Bryce should give his certificate of competence before the Committee, if what you know about him is not enough.²⁴ I will not accept that question Mr. Downey.

The testimony of Mr. Bryce and Mr. Brown ended after the discussion of the chapter on capital gains taxation.

²⁵

The Committee decided over Conservative objections to move directly to the handling of briefs from the private sector without finishing a section by section examination of the White Paper with the Departmental officials. The reason for that decision was given by Mr. Mahoney:

²⁴

Ibid., April 16, 1970, pp.33:17-33:18.

²⁵

Ibid., April 23, 1970, pp.36:26-36:34.

I do not think that the sessions to date have been unproductive but there seems to be a sameness developing. The putative authors of the White Paper are saying very much what one would expect them to say about the product of their ingenuity. I think that it is high time that we did get out to the private sector and have up with questions. I am sure we will have to get back to these officials but surely it would be much more worthwhile getting back to them with questions that have arisen as a result of interviewing people who are going to be directly affected by these proposals rather than many of the academic examples that we are able to think up ourselves. ²⁶

The testimony of the officials was of very high calibre and greatly improved the Committee's understanding of the White Paper. The major problem was that the hearings should have been organized around certain basic concepts involved in tax reform. Because this was not the case, there was a tendency for the members at times to lose sight of the forest for the trees. The last chapter will suggest means of avoiding this difficulty.

2. The Private Sector

After the end of the Department of Finance hearings, the Committee turned its attention to the presentations from the private sector. These were the briefs which, it was hoped, would justify the White Paper process. For, while Mr. Benson had warned of the dangers of the special interest groups whose submissions "argue [that] true equity consists of lowering the tax of the party making the submission",²⁷ he had expressed the hope that "concerned and interested Canadians [could] present facts about their personal or business situations. The Government and Parliament [would] have a further gauge of public opinion

²⁶

Ibid., p.36:31.

²⁷

Canadian Tax Foundation, Report 1970 Conference, op.cit., p.254.

28
generally."

While the Committee was undoubtedly aware of the danger of being swamped by briefs presenting a particular point of view, it was unable (or perhaps unwilling) to avoid it. Between April 23 and July 31, the Committee met 146 times and²⁹ heard 211 briefs presented by 820 individuals.

The vast majority of presentations came from groups which were concerned about preserving special privileges or about keeping new tax burdens as light as possible. In order to illustrate this point, there were approximately forty submissions by groups directly involved in mining and petroleum. Not surprisingly, all predicted various degrees of disaster for free enterprise, the mining industries, and the Canadian economy, if the White Paper proposals dealing with the resource industries were implemented. While there was a factor of overkill involved against which the Committee reacted in its report, the submissions made it very unlikely that the Report would be able to suggest changes in the White Paper to bring the taxation of the extractive industries closer to what was advocated by the Carter Commission.

The proposed tax on capital gains was subjected to very severe criticism from all sorts of business interests as being inimical to economic growth, as leading to a confiscation of capital if gains due to inflation were not to be accounted for, as reducing incentives to invest, etc. But most of the attacks on the capital gains tax recognized its inevitability and thus were concentrated on varying aspects of it. The most vicious

28 Ibid., p.253.

29 Canada, House of Commons, Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs Respecting the White Paper on Taxation, October 5, 1970, p.5 (Hereinafter it will be referred to as "the Report" or the "Committee Report.").

criticism was reserved for the proposal for the quinquennial revaluation for tax purposes of the shares of widely-held corporations. There was criticism as well of any tax on the gains arising out of the sale of personal residences. Finally, the opponents of a capital gains tax insisted that, if it could not be avoided, the rates should be no higher and preferably lower than the comparable American ones.

Other aspects of the White Paper that received harsh treatment in the briefs included the proposed integration of the personal and corporate income tax, the heavier tax burden to be placed on those earning between \$10,000 and \$25,000 a year, and the severe tightening up of expense account living provisions.

Two other points which were brought up over and over again regarded the conflict between equity and growth and the treatment of small businesses. The Committee was told repeatedly that the effect of implementing the White Paper would be a severe retardation of economic growth in Canada. Related to this criticism were the many objections to the proposed removal of the low rate of tax for the first \$35,000 of corporate income. It was alleged many times that the White Paper would cause great harm to small business.

It would not be correct to imply that the presentations from the private sector came only from big business and its allies. There were submissions from such organizations as the Canadian Labour Congress, the Canadian Welfare Council, the Public Service Alliance of Canada, and the Vanier Institute of the Family. These and other groups supported tax reform, and

their criticisms of the White Paper were that it did not go far enough towards implementing the Carter Report.

Nonetheless, while the Committee did receive some briefs in favour of tax reform, it was snowed under by submissions from those who would have been hurt, or who thought they would have been hurt by the White Paper proposals. Those who were most likely to support tax reform along the lines set out by the White Paper or by the Carter Commission were simply unable to organize as effectively as were the special interests who had privileges to maintain.

If the White Paper process is aimed at achieving some sort of participatory democracy, and if Committees are to serve as the vehicle for doing so, then the experience with tax reform should be viewed not as an example to emulate but as a lesson in what to avoid. No means was found to enable the unorganized and the low-income earners to articulate effectively their needs and their views on taxation. The Committee has been³⁰ accused of having operated as a forum for right-wing groups. This accusation is not totally unjustified even if it can be established that such was not the original intention of the Committee.

The general effect that the briefs had on the Committee members is quite significant. When the hearings began, the Conservative members were opposed to most of the principles of the White Paper. The public hearings merely served to reinforce their views.

³⁰ Personal conversation with some Committee members.

The New Democrats supported the Carter Report, but had criticized the White Paper for being little more than an elaborate cover-up for the status quo. Mr. Saltsman's original position was as follows:

Mr. Minister, the first thing that I want to say is that I object to the unmerited compliment that has been paid to you, when people call you a socialist. It is likely to give socialism a very bad name. And I want to assure your worried backbenchers that you are a good solid free enterpriser. I figured that it was necessary to say that at this time because from reading the kind of thing I have been reading in the papers, the kind of criticisms that have been raised against the White Paper, and from listening to the kind of statements that the members of your party have made on the White Paper, one would think that some substantive reform had been introduced in the tax system, that some great change was going to take place that was going to rock our society and change the nature of it. They obviously have not read this thing or thought through it because it is no such document.³¹

As the hearings progressed and as the avalanche of criticism built up, the New Democrats became the staunchest supporters on the Committee of the White Paper proposals for they decided that it was in their interest to salvage something out of what appeared to be the wreck of tax reform.

The briefs had a varying effect on the Liberal members and served to split them. At least two, John Roberts and Gaston Clermont, gave the impression throughout the meetings of being very favourable to the White Paper. Barnett Danson and Robert Kaplan, while favourable to the White Paper, seemed to recognize the need for some considerable compromise in the light of the criticisms. Others, like Alastair Gillespie, Patrick

31

Proceedings, January 15, 1970, p.12:58.

Mahoney and Ross Whicher appeared very impressed by some of the objections raised by the private sector in the areas of capital gains, integration, small business, and the tax burden on the middle income group.

The oral presentations were not the only factor available to influence the Committee members. Written briefs, letters and personal meetings with constituents were also important. To some extent these could even have served to counter-balance the public hearings. But, nonetheless, to be deluged day after day after day by briefs stating basically the same things was bound to have an effect and one that can be counter-balanced, if at all, only with very great difficulty.

A third factor of importance in the procedure of the Finance Committee were the presentations - formal and informal - of provincial governments. These deserve to be looked at separately from those of the private sector.

3. The Provincial Governments

While it is difficult to ascertain orders of importance, presentations with the greatest significance made to the Committee were those which came from the provincial governments. The Governments of Ontario, New Brunswick, and Saskatchewan made oral submissions to the Committee and, except for Prince Edward Island and British Columbia, the others made their views on tax reform known to the Committee in writing.

Given the nature of the division of responsibilities under the Canadian Constitution, it is essential that the taxation system be acceptable both to the Federal Government and to the provinces. It is necessary to understand the importance that had to be attached to the views of the provinces.

According to the Committee Report, "the succinct phrase 'too far, too fast' perhaps best sums up the tenor of the views of most of the provincial governments on the White Paper proposals as a whole, in particular on taxing capital gains."³² The next few pages will outline the position of five of the provinces.

Ontario expressed concern that the White Paper proposals would hamper economic growth in Canada; the province urged a system of capital gains taxation that would be less severe than put forward by the White Paper; it suggested more favoured treatment than the White Paper proposed for the extractive industries and for small business; it opposed the plan for the integration of the personal and corporate income tax. While Ontario believed that the White Paper hit business too hard, it felt that the low-income individual was not going to receive adequate treatment. Therefore, it proposed a system of tax credits rather than personal exemptions, and suggested more generous allowances for employment expenses than those provided for by the White Paper.

The Government of Quebec has a policy of not sending representatives to appear before Federal Parliamentary Committees, but it did make available a position paper presented by Premier Robert Bourassa to the Federal-Provincial Conference of Finance Ministers in Winnipeg on June 5-6, 1970. The Quebec viewpoint was published as evidence by the Committee on August 4.³⁴

³² Committee Report, p.95.

³³ Proceedings, June 23, 1970, pp.70:7 - 70:106 and 70:131 - 70:184.

³⁴ Ibid., August 4, 1970, pp.90:126 - 90:149.

Quebec insisted that the tax system be designed to promote economic growth as a first priority, and it described the White Paper as being "a little idealistic."³⁵ Mr. Bourassa expressed his concern that the White Paper would have a detrimental impact on small business; he stated a need for the mining industry to receive favoured treatment; he accepted a capital gains tax but wanted it to be imposed at half rates so that economic growth would not suffer; he opposed the periodic revaluation for tax purposes of shares of widely-held corporations and proposed instead a deemed realization of capital gains at death; Quebec proposed a modified dividend tax credit scheme instead of the integration formula for personal and corporate income tax; finally, Quebec suggested that consideration should be given to replacing the standard personal exemption with tax credits.

The section of the Quebec brief that deals with the extractive industries included the following two paragraphs:

No subject seems to have aroused greater controversy and concern than that of changes proposed in the taxation of mining companies... We have even received numerous briefs on this subject. Several expansion plans, entailing in total several hundred million dollars, have been postponed or - so we are told - are likely never to materialize because of the implications of the tax reform.

It is very difficult to judge how well-founded are the fears that the mining industry harbours with regard to the White Paper. One thing is certain: its tax burden would be increased by the application of the reform. Projects that give promise of yielding a certain rate of return under the present taxation system would be less competitive compared with similar investments in the other countries. They

35

Ibid., p. 90:129.

could then be delayed or simply be discarded. Quebec cannot afford to lose promising investments in this fashion. As I [Premier Bourassa] indicated at the outset, a fresh start for our economy is a fundamental and primary objective.³⁶

The interesting aspect of this part of the Quebec brief is that it shows clearly that the mining industry did not confine its lobby to Ottawa, but rather attempted - with success - to use the provinces to pressure the Federal Government to modify its tax proposals.

The Province of Alberta sent to the Committee a brief which had previously been presented to Finance Minister Benson.³⁷ It was published as evidence on August 6. The Government of Alberta expressed violent disapproval of the whole philosophy of the White Paper. It opposed any removal of tax privileges for the mining and petroleum industries; it opposed the introduction of a capital gains tax; it denounced the proposed integration plan and opposed the changes affecting the position of small business. Finally, it stressed the need for a tax system favourable to economic growth and free enterprise.

Representatives of the Government of Saskatchewan appeared on July 22 before Sub Committee A which at the time was conducting its Western hearings in Regina. The reaction of the Government of Saskatchewan to the White Paper³⁸ was very similar to that of Alberta. It denounced the White Paper for its "Big Brother is Watching philosophy,"³⁹ and stated that the income

³⁶

Ibid., p.90:137.

³⁷

Ibid., August 6, 1970 pp.92:39 - 92:131.

³⁸

Ibid., July 22, 1970, pp.76:7-76:23 and 76: 152-76:160.

³⁹

Ibid., p.76:152.

tax proposals were "the meanest most restrictive proposals that will result in one of the toughest tax systems in the western world." ⁴⁰

Representatives of the Government of New Brunswick appeared before Sub Committee B on July 20. ⁴¹ The basic position of New Brunswick was that "the proposals represent an idealistic concept of taxation reform which, if put into effect, would be injurious to Canada's general economic well-being." ⁴² In particular, the Province wanted a lower rate for the proposed capital gains tax, a favoured treatment for small business, and a lessening of the burden on middle-income taxpayers. New Brunswick, like Quebec, insisted that the tax system must encourage economic growth.

The Committee did not receive any statement from Prince Edward Island or British Columbia, and it did not publish anything it received from Newfoundland, Nova Scotia, and Manitoba. Nonetheless, the views of the five provinces outlined above do show a definite and important opposition to the White Paper proposals. While the influence of the provinces on the Committee cannot be estimated in any quantitative manner, it would be a very grave error to underestimate the impact of the provinces on the final Committee Report.

4. Final Government Hearings

The last private sector witnesses appeared before the Committee on July 31. After that, the Committee held two more public meetings with regard to the White Paper. These were devoted

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Ibid., p.76:154.

41

Ibid., July 20, 1970, pp.74:95-74:138 and 74:161-74:175.

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Ibid., p.74:176.

to a final examination of Government witnesses. On August 4, National Revenue Minister Jean-Pierre Côté and officials of his Department testified; the next day Finance Minister Benson and two of his officials came before the Committee.

The meetings with Mr. Côté dealt exclusively with the problems of administration of the White Paper proposals and not with the philosophy of tax reform. Questions asked of the minister were in the area of entertainment expenses, valuation of capital gains, averaging of taxes, the distinction between closely and widely held corporations, and the treatment of certain forms of international income. Mr. Côté and his officials assured the Committee that all the White Paper proposals were administratively feasible.

The final witness to appear before the Committee was Mr. Benson. He began his testimony with a short statement indicating that while he was prepared to accept some modifications in the White Paper, he would insist upon the need to institute a reformed tax system which included a) a capital gains tax, b) a shift of the tax burden away from low-income earners, and c) an
43
elimination of loopholes.

Opposition Leader Robert Stanfield had indicated a desire to sit with the Committee for the purpose of questioning Mr. Benson. As is normal under similar circumstances, he was granted the courtesy of so doing, and he was given the additional privilege of not having to conform to the usual time limit imposed on Committee members. Mr. Stanfield was first to interrogate Mr.

Benson, and he attempted to get the Minister to announce modifications of his proposals in the area of the five year revaluation of shares of widely-held corporations, of the capital gains tax on the sale of personal property, and of the treatment of the extractive industries. Mr. Benson answered only that he was awaiting the Committee Report and would not presume to tell the Committee what to do.

Most of the questions asked of the Finance Minister related to criticisms of the White Paper that had been brought to the attention of the Committee during its hearings with the private sector. The minister spent much time in defending his proposals for a capital gains tax, for integration, and for removing some of the privileges of the extractive industries. He stated his belief that the implementation of the White Paper proposals would not be detrimental to economic growth. The one area where the minister recognized a real problem was that of small business, and he indicated that he wanted ideas on how to deal with it.

With regard to the Committee itself, Mr. Benson was asked by Mr. Whicher:

Regardless of what the Committee suggests, will you state unequivocally that you will treat seriously the various recommendations of the Committee?

Mr. Benson: Yes, I am very willing to do this. As

a matter of fact, I have, since the beginning of this process, when the White Paper was first referred to the Committee, indicated that the Committee part of the White Paper process must be a very major part of it. And the Committee has done a great deal of work going across the country.

The government has not made up its mind, and I indicated a dozen times this morning that different questions are open. There are all kinds of questions open within the White Paper. We will not make up our mind on major parts of the White Paper and the forming of legislation until we have received the Committee's report... We have not made up our minds. We will pay careful attention to the Committee's report.

I cannot bind the government to say it will accept every recommendation of the Committee, because in that way I would be inviting almost anything. However, what I can say is that we will seriously consider all of the recommendations of the Committee, and I think that this Committee report will certainly receive much more attention than some committee reports have in the past under previous governments. Under this government, they all receive due consideration.⁴⁵

On August 6, the Committee met in camera with its advisors to hear their views on what the Report might contain. The Committee then adjourned until September at which time it was to consider a draft report which was to be prepared in August by the sub-committee on Agenda and Procedure.

The next chapter will examine the Committee Report and its effect on Government policy.

45

Ibid., pp.91:96-91:97.

CHAPTER FOUR

THE COMMITTEE REPORT

During the month of August, some of the Committee advisors working in close conjunction with Mr. Clermont and other members of the Sub-Committee on Agenda and Procedure produced a draft report which was submitted on September 8 to the full Committee for its consideration. There followed three days of intensive in camera sessions in which the draft report was debated and amended. On September 11, a final report was agreed upon by a vote of ten to two. The Report was approved by the Liberals and opposed by the New Democrats; the Conservatives deliberately abstained; the Creditistes were not present at the drafting sessions.

The final Report was tabled in the House of Commons on October 5, 1970. At the same time, the two New Democrats, Mr. Burton and Mr. Saltsman, released a dissenting report to the press because House of Commons rules do not permit the filing of minority reports.

A. Contents

To a large extent the Committee Report approved the

general thrust of the White Paper proposals, but it did suggest a certain number of substantial modifications which would have served to dilute some of Mr. Benson's most controversial recommendations. This section will identify the major areas of similarity and divergence between the Committee Report and the White Paper. It will be divided into sub-sections according to the chapter headings of the White Paper.

1. Setting and Summary

The Committee stated that it would confine its recommendations to the basic framework set out by the White Paper and would not investigate other approaches to taxation. The important aspect of the first section is the stress placed on the need to devise a taxation system which would not be inimical to economic growth while still promoting greater equity than the unreformed system. The Committee Report mentioned that the ordering of the priorities of growth and equity sparked hot debate amongst those making representations to it.

The Committee is of the opinion that its recommendations, if implemented, would promote the equity emphasized in the White Paper and at the same time eliminate any possible bias against economic growth which some Canadians feared would be a by-product of the implementations of the White Paper proposals in their original form.¹

2. The Individual and the Family

While, in its first chapter, the Committee stated that it "is especially concerned with the plight of low-income Canadians, who have been less able than other taxpayers to protect themselves against the inflationary and unemployment pressures in our economy",² it nonetheless rejected a method

¹ Committee Report, p. 11.

² Ibid., p.8.

designed specifically to help those at the lowest end of the income scale. Rather than accept the principle - advocated, for example, by the Canadian Welfare Council and the Vanier Institute for the Family - of giving tax credits to those with the lowest incomes, the Committee approved the White Paper's proposed raising of basic personal exemptions. The logic of the reasoning of the Committee is less than clear:

While the tax credit approach has a great deal to commend it in terms of being adjustable from time to time without a restructuring of the rate schedule, the exemption procedure does have the advantage of retaining a method to which individual taxpayers are now accustomed.³

How the Committee could reconcile its acceptance of a very complicated integration formula for personal and corporate income taxes with its rejection of tax credits because people are not accustomed to them is not easy to understand. What is more comprehensible is the fact that the raising of personal exemptions for millions of taxpayers is politically more popular than the institution of tax credits for the benefit solely of low-income earners.

The Committee did not recommend any significant modifications from the White Paper in the area of exemptions for dependents or for employment expenses. In the case of child care exemptions, the Committee urged that the White Paper proposal be extended "to cover the situation where there is a parent at home who is unable to care for the children by reason of permanent mental or physical infirmity."⁴

The Committee accepted the White Paper recommendation that the expenses of moving because of a change of employment be tax deductible, but suggested that the deductions be made either

³ Ibid., p.13.

in the year in which the expenses were incurred or in the following year.⁵ As for expense account living, the Committee recommended a substantial softening of the White Paper proposals.

As far as additions to the tax base are concerned (apart from capital gains and corporate source income which will be dealt with later), the Committee would have added to the White Paper proposals strike pay coming from funds not previously subject to Canadian tax. It would have "exempted fellowships, scholarships and bursaries up to an aggregate of \$500 a year."⁶

The Committee accepted with some modifications the new income tax rate schedules outlined in the White Paper. The Report recommended⁷ that, where provincial taxes are levied at 28 per cent of federal tax, the top rate should be 60 per cent and it should cut in at approximately \$60,000. The 50 per cent rate should cut in at at least \$30,000 of taxable income rather than at \$24,000 as proposed by the White Paper. The Committee stated that acceptance of its proposals would reduce the burden which the White Paper would have placed on the so-called middle-income taxpayers.

Finally, the Committee approved with very minor modifications the White Paper proposals on treatment of pension plans and on income averaging for tax purposes.

3. Capital Gains as Income.

It is in the field of capital gains taxation that the Committee made recommendations significantly different from those which were found in the White Paper. The Committee proposals were based on the belief that all capital gains should be treated in

⁵ Ibid., p.18.

⁶ Ibid., p.20.

⁷ Ibid., p.21.

the same way for tax purposes.

The Committee accepted the White Paper reasoning for taxing gains on shares of widely-held corporations at one-half the full rate of personal income tax. Therefore, in order to maintain what it believed to be an equitable treatment of capital gains, the Committee recommended that all capital gains be taxed at half rates rather than at the full rates which the White Paper suggested for most gains. The Report said that the recommendation to tax capital gains at half rates was influenced by representations from provincial governments that capital gains should not be treated in the same way as other income.⁸

The Committee rejected the White Paper proposal for a five year revaluation of shares of widely-held corporations for capital gains tax purposes. Instead of the five year revaluation and to "prevent indefinite deferral," the Committee recommended "that there be a deemed realization of capital gains on death in respect of shares of widely-held corporations."⁹ The Committee went on to propose deemed realization at death for all capital assets except for transfers to spouses, and it approved the White Paper proposals that there be deemed realization for all inter vivos gifts, again except for transfers between spouses.

The Report stated that the tax on the deemed realization of capital gains at death combined with the normal estate tax could produce excessively heavy burdens. Therefore, it proposed a substantial reduction of estate taxes.¹⁰

⁸ Ibid., p.26.

⁹ Ibid., p.32.

¹⁰ Ibid., p.34.

The Committee rejected the proposal that there be a tax levied on any capital gains from the sale of a principal residence or of an acre of land around it.¹¹ The Committee based its reasoning both on administrative difficulties in the enforcement of the proposal as set out in the White Paper and on objections from groups appearing before the Committee. The Report also recommended that tax on the sale of personal property be applied only if the proceeds exceed \$1,000 instead of \$500 as suggested by the White Paper.¹²

Finally, while the White Paper had suggested that valuation of assets for capital gains tax purposes would be their value on a day close to the beginning of the new system proclaimed by the Government to be "valuation day," the Committee Report said that:

One of the points on which the briefs have been practically unanimous is that the proposed plan to value all assets, for capital gains purposes, at their value on valuation day could be unfair, if such value was below cost. Particularly at a time when the stock market and farm land values are at a low ebb, many taxpayers would find themselves paying capital gains tax on a capital loss.¹³

In order to avoid this problem, the Committee recommended that:

The value of an asset for the commencement of the system should be the higher of cost or market where a gain was involved, and the lower of those two figures where a loss had occurred. This means that no gain would be recognized unless and to the extent that the proceeds of sale exceeded the higher of cost or market, and no loss would be allowable on a sale below the lower of cost or market.¹⁴

4. Corporations and their Shareholders

The two most important elements of the entire White Paper were the taxation of capital gains and the proposed

¹¹ Ibid., p.30.

¹² Ibid.

¹³ Ibid. p. 37

scheme for the integration of personal and corporate income tax. Both were subject to very severe criticism from business interests and from provincial governments. While the proposal to tax capital gains was meant to increase the tax base and to make it more equitable, the integration proposal was designed to alter fundamentally the nature of a very important aspect of the Canadian tax system. As such, integration should be viewed as the single most important reform advocated by the White Paper. All the other proposed changes were aimed at remedying some inequities of the existing system; integration would have changed the system.

The Committee, as already shown, accepted with modifications the principle of a capital gains tax; it also accepted the principle of integration although it proposed certain changes from the White Paper. Recognizing that the degree of integration of personal and corporate income taxes must for equity purposes be linked to the level of the capital gains tax, the Committee recommended that as a general rule there be one-half integration of personal and corporate income taxes.¹⁵

The Committee considered the White Paper proposal to apply a single rate of tax to all corporations and to eliminate the low rate on the first \$35,000 of taxable income. This proposal was, according to the Report, subject to great criticism because of the possible harmful effects it would have on small businesses.

The Committee stated its belief that incentives should be made available to small businesses in Canada, but it declared

15

Ibid., p.48.

itself in agreement with the White Paper that the unreformed tax system did not provide an efficient means of doing this. The Report emphasized that help should be given "to those with poor access to funds needed for expansion."¹⁶ The Committee wanted to ensure that incentives would not be given to those who do not require help:

The Committee believes that the tax relief should not be given, as under the present system, regardless of the size or the needs of the business. The tax relief should be confined to small businesses, or alternatively a mechanism should be devised by which the income of a business over a certain figure would be subject to an increasing incidence of tax until the tax relief has been recaptured. Thus the relief should be growth oriented. The latter approach, using a graduated rate scale, would make unnecessary a complex definition of a small business. The Committee has come to the conclusion that the test should be one that best indicates the need of the business for funds for financing modernization, expansion and growth.¹⁷

The Committee did not make any specific recommendations as to what type of incentives to give to small businesses; it preferred to leave such a task to a special committee which the Minister of Finance had appointed to study the particular problems of small business. Nonetheless, the Finance Committee did establish certain guidelines as to whom the incentives should be applied:

We recommend that the small business incentive be available to a business with taxable income of up to \$35,000; that when this figure is passed the relief should be phased out under a 'notch' provision so that it would cease altogether when taxable income reached \$105,000; and that the maximum benefit in any year should be \$10,000.

¹⁶ Ibid., p.52.

¹⁷ Ibid.

To assist in the limiting of the incentive to situations where it is needed, we also recommend that widely-held corporations, subsidiaries controlled by a widely-held corporation and corporations or businesses not controlled by residents of Canada should be excluded from the relief.¹⁸

These are the major proposals made by the Committee in the section on corporations and their shareholders.

5. Business and Property Income

There are two major areas of concern in the section on business and property income. The first regards entertainment and related expenses; the second deals with the natural resource industries. There is a third and less important area which has to do with the tax treatment of income for taxpayers in the professions.

While the White Paper would have eliminated deductions from taxable income for entertainment expenses and for the costs of attending conventions, the Committee was far more lenient. It expressed the belief that entertainment is often a legitimate business expense and should be recognized as such; similarly it felt that conventions are often business oriented and are a necessary cost of doing business. The Committee recommended that entertainment expenses continue to be deducted from tax where detailed records can substantiate their business purpose. "Reasonable" convention expenses for bona fide business purposes would continue to be tax deductible. Each taxpayer would be allowed two such conventions per year. As well, the Committee proposed that the expenses of a businessman

18

Ibid., p.53.

attending up to two training seminars a year be made tax deductible. ¹⁹

In the part concerning the resource industries, the Committee generally accepted the recommendations of the White Paper and the subsequent modifications announced in August by Mr. Benson. The Committee pointed out that while the resource industries need a continual infusion of capital to expand, they are no different in this respect from other industries. The Committee did not question the importance of the resource industries, but it suggested that too much favourable treatment for them is inequitable and could result in a serious mis-allocation of resources. ²⁰

The Committee expressed the view that the White Paper proposals with some changes "will produce a more neutral and equitable system and yet will preserve a sufficiently favourable climate for the optimum development and growth of our natural resource industries." ²¹ The Report made certain suggestions for changes with regard to the proposed new earned depletion system. First, it stated that the transition period suggested by the White Paper to the new system was not adequate. Furthermore, the Committee recommended that the base of earned depletion be broadened to include:

- i) the cost of all mineral properties;
- ii) such things as townsites provided by the company, and

¹⁹ Ibid., pp.68-69.

²⁰ Ibid., p.73.

²¹ Ibid., p.74.

- iii) expenditures on equipment that would increase the degree of processing minerals in Canada, particularly those oriented to export...

We further recommend that taxpayers should be allowed to establish a bank of earned depletion at the start of the system by calculating past exploration and development expenditures less any depletion allowed. There would have to be strict provisions to prevent trafficking in dormant depletion allowances.²²

With respect to the tax treatment of the income of taxpayers in the professions, the White Paper had suggested that it be taxed on an "accrual" basis rather than on a "cash" basis. This recommendation sparked harsh criticism from various professional groups. The Committee recommended that "the accrual base for professionals be adopted for receivables but not for inventory and work in progress."²³

6. Taxing International Income

Basically, the Committee agreed with the proposals of the White Paper with regard to the taxation of international income. In particular, the Committee endorsed the distinction made between Canadian-controlled foreign subsidiaries operating in treaty and non-treaty countries. The Committee stated its approval of the Government's policy to negotiate as many bilateral tax treaties as possible.

The Committee expressed its approval in principle of the aim of the White Paper to eliminate tax havens in Canada, but warned that administrative difficulties in enforcement could pose dangers greater than the immediate problem itself:

²² Ibid., p.76,

²³ Ibid., p.79.

This Committee would consider it a retrogressive step if legislation were to be enacted which, in order to deal with a small problem, introduced serious obstacles to the bona fide international business activities of Canadians. ²⁴

7. Co-ordination with the Provinces

In the section on co-ordination with the provinces, the Committee merely re-affirmed its belief that the co-ordination of federal and provincial tax systems must be "a paramount objective of Canada's tax policy. Without it, Canada could quickly return to the tax jungle of the 1930's in which the loss of equity and the adverse economic impact might make meaningless the White Paper's objectives of reform." ²⁵

This statement by the Committee should not be considered the platitude a quick glance might indicate it to be, for it explains the important forces behind some of the Committee recommendations:

The succinct phrase 'too far, too fast' perhaps best sums up the tenor of the views of most of the provincial governments on the White Paper proposals as a whole, in particular on taxing capital gains. The Committee believes its recommendations reflect to a large degree the views of most of the provinces and that their adoption would pave the way for the acceptance of tax reform by the provinces and continued co-ordination of federal and provincial tax systems. ²⁶

8. Impact on Revenues and the Economy

The only significant aspect of the final chapter of the Report is an expression by the Committee of its belief that its recommendations, if adopted, would remove any harmful effects on economic growth that the White Paper might have had.

²⁴ Ibid., p.88.

²⁵ Ibid., p.95.

²⁶ Ibid.

It is clear that the Committee Report does not approach equity and neutrality as closely as the White Paper did. While both fall short of the Carter Commission, the Committee Report is further away from it than the White Paper. While the Committee accepted the shifting of the burden of taxation away from the low-income taxpayer - and politically it could not do otherwise - the general nature of its recommendations reflect the tenor of the majority of the representations made to it during its public hearings.

B. Final Tax Reform Legislation

At about the same time as the House Committee tabled its findings, the Senate Standing Committee on Banking and Commerce produced a report harshly critical of the philosophy of the White Paper.²⁷ (It will be recalled that in November 1969, when the Government decided to refer the White Paper to the House Finance Committee, the Senate embarked on its own study of tax reform). The Senate Report stressed the need for the tax system to encourage a climate favourable to capital formation and to economic growth. The Report opposed the proposal to integrate personal and corporate income tax, and suggested drastic changes in the treatment which the White Paper would have accorded capital gains, the extractive industries, international income, and expense account living.

The Government took several months to consider the recommendations of both Parliamentary Committees and of other

27

The Standing Senate Committee on Banking and Commerce, Report on the White Paper Proposals for Tax Reform, Ottawa, September, 1970.

bodies which made known their views on tax reform. In his budget speech of June 18, 1971, Finance Minister Benson announced the Government's final position on tax reform. He told the House of Commons that following the publication of the White Paper,

The government has considered the hundreds of submissions from organized groups in our society and the thousands of thoughtful letters from individual taxpayers.

The work of the two parliamentary committees was extremely important to the White Paper process. The members of the Commons Committee on Finance, Trade and Economic Affairs were able to assess not only the submissions from organized groups but as elected Members of Parliament were able to assess public opinion among their constituents...

The White Paper process was an important step in the evolution of participatory democracy in Canada...The government chose to express in a White Paper its view of what a tax system ought to be, and invited all Canadians and all levels of government to join in the discussion. As I have said many times, the White Paper reflected the government's view, but the government was not wedded to its proposals; rather, it was willing and ready to respond to suggestions for improvement, provided that the basic objectives of tax reform were maintained.

... The White Paper process was, Mr. Speaker, of great value. In the end, the federal government must assume its responsibility to recommend the legislation which, in its judgment, will best serve the interest of Canadians. However, through the process of debate and discussion, it has been possible to develop a program of tax reform which not only meets the needs of Canada but also reflects the views of Canadians. ²⁸

With certain exceptions, the tax reform outlined by Mr. Benson in his budget speech bears the imprint of the Commons Committee Report. The major exception - the dropping of integration -

results from representations made to the Committee by various important interests. A document which summarizes and explains the tax legislation makes frequent reference to the Report of the Finance Committee, and includes a synopsis of the proposed changes in the income tax law comparing them to the old law, to the White Paper, and to the reports of the two parliamentary committees. 29

The tax reform proposals do not herald the coming of a radically new taxation system for Canada. The most significant recommendations of the Carter Commission and of the White Paper were dropped or changed almost beyond recognition. What is important is that the new system is an accurate reflection of the views expressed during the public debate on the White Paper. If the public participation that followed the publication of the White Paper can be considered to have been representative of the views of Canadians as a whole, then the tax reform, as introduced by Mr. Benson, represents a triumph of participatory democracy. It is submitted here that the tax reform represents not a triumph of the principle of participatory democracy but rather a triumph of vested interests and of lobbyists.

The White Paper and the Carter Report listed equity as the first objective of a tax system and economic growth as a second objective. In the year and a half between the publication of the White Paper and the tabling of the final reform legislation,

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Honourable E.J. Benson, Minister of Finance, Summary of 1971 Tax Reform Legislation (Ottawa, June, 1971). Henceforth referred to as "Summary."

there was a tremendous outcry from business interests that any conflict between equity and growth should be resolved in favour of growth.³⁰ In his budget speech, Mr. Benson recognized the objections that had been raised and reversed his previous order of priorities. He suggested that the first objective of a tax system must be to

be sensitive to the economic and social needs of this country. It must not stand in the way of steady and continuous growth and economic prosperity. In some cases, it must do more - it must stimulate sectors of our economy which need incentive. Next, a tax system must distribute the tax burden in an equitable manner based upon ability to pay.³¹

It is in this perspective that the tax reform should be viewed. There is definitely a shifting of the burden of taxation from those with less ability to pay to those with greater ability to pay. But there is no attempt to introduce any real equity into the system. The Carter idea that "a buck is a buck is a buck" is nowhere to be found in Mr. Benson's reformed tax system. The following pages will examine the tax reform proposals and the effect of the Report of the Finance Committee on them.

1. Personal Income

The final legislation is more generous than both the White Paper and the Committee Report in that it raises personal exemptions to \$1500 instead of \$1400 for a single taxpayer and to \$2850 instead of \$2800 for a married taxpayer.

There are four areas in the field of personal income in which the final proposals accept the recommendations of the

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See Committee Report, p.9.

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Canada, House of Commons Debates, June 18, 1971, p.6893.

Committee Report. The first is that there be provision for child care deductions in a situation where there is a parent at home who, because of some physical or mental infirmity, is unable to care for the children;³² the second is that moving expenses be deductible either in the year in which they are incurred, or in the following year;³³ the third is that there be a \$500 exemption before tax is levied on fellowships, bursaries, or scholarships.³⁴

The fourth and most important area is that which concerns the rate schedules for income tax.³⁵ Mr. Benson accepted the Committee recommendation that the top marginal tax rate be about sixty per cent and that it should cut in at \$60,000 of taxable income. A new schedule was drawn up to reduce the burden that the White Paper would have placed on the so-called middle income taxpayers.

2. Capital Gains Taxation

In the field of capital gains taxation, the Government adopted most of the recommendations of the Commons Committee:

The Commons Committee said it was the view of the private sector and the provincial governments that 'capital gains should not suffer the same weight of tax as other income,' and the committee recommended taxing one-half of realized gains as a general rule.

The legislation proposes to include one-half of capital gains in the taxpayer's income to be taxed at personal rates if the taxpayer is an individual, or at corporate rates if the taxpayer is a corporation.³⁶

³² Summary, p.9.

³³ Ibid., p.9.

³⁴ Ibid., p.10.

³⁵ Ibid., p.11.

³⁶ Ibid., p.30.

The Government adopted the recommendation of the Committee to exempt from tax any capital gains on the sale of "a taxpayer's principal residence together with up to an acre of surrounding land." ³⁷ As well, tax on capital gains from the proceeds of the sale of personal property will only be imposed if the value of the property is at least \$1,000 as suggested by the Committee instead of \$500 as proposed by the White Paper. ³⁸

The White Paper provision whereby shares of widely-held corporations would be revalued every five years for purposes of a capital gains tax was dropped as the Commons Committee had recommended. ³⁹ Instead, the new legislation adopted the Committee proposal for a deemed realization at death of accrued gains on all capital assets except for those passing between spouses. ⁴⁰

The Committee recommended that the provision for a deemed realization at death of accrued gains on capital assets be coupled with a significant reduction in estate taxes; the Senate Committee recommended that federal estate taxes be abolished. In this case, Mr. Benson accepted the suggestion made by the Senate Committee. ⁴¹

Finally, with regard to Valuation Day, the new legislation is based on the Commons Committee proposal that, to compute a capital gain, a taxpayer be permitted to use the higher of the original cost or the value of the asset on valuation day, and to compute a capital loss, the lower of the original cost or the value of the asset on valuation day. ⁴²

³⁷ Ibid., p.31,

³⁸ Ibid., p.32.

³⁹ Ibid., p.30.

⁴⁰ Ibid., p.33.

⁴¹ Ibid.

⁴² Ibid.

3. Corporations and their Shareholders

The section of the White Paper regarding corporations and their shareholders dealt with two major areas - integration of personal and corporate income tax and the tax treatment of small businesses. The integration concept was the most innovative and radical proposal of the entire White Paper and, consequently, was the subject of severe criticism. The treatment of small business also created great controversy.

While the Senate Committee recommended the dropping of the integration proposal and suggested instead a modification of the existing dividend tax credit system, the Commons Committee accepted the principle of integration and recommended, in line with its capital gains tax proposals, that there be "half integration for dividends from all Canadian companies."⁴³

In the tax reform legislation, Mr. Benson decided against introducing integration because, "whatever its merits, the business community and a number of the provinces, including the two largest, found it unacceptable."⁴⁴ The dropping of the integration scheme meant the end of any substantial and significant reform of the taxation system. According to the Honourable Eric W. Kierans:

The keystone of tax reform rested on the integration of corporate and personal income. Recommended by the Royal Commission and promised although in diluted form by the White Paper, it has now been completely abandoned.

The reasons are not hard to find. The inclusion of capital gains at full tax rates in the comprehensive income base would have been required. Further, the tax privileges of the resource industries would have to be withdrawn.

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Committee Report, p.47.

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Canada, House of Commons Debates, June 18, 1971, p.6898.

Dividends on these shares far exceed the income taxes actually paid and there would have been little taxable credit to offset the dividend income. Often there would have been none and the Home Oil shareholders are but one example of those who would not have benefitted. One cannot build a fair system of taxation on foundations which are themselves inequitable.

The most specious argument, however, used against integration was the small business argument. The royal commission recognized the politics of abandoning the dual rate and suggested other offsets. Whether one agrees with these or not, the fact is that small business - and particularly the new, the younger, the coming dynamic elements of our society - would have benefitted enormously from the integration of corporate and personal income including capital gains. Unfortunately, the case of the young entrepreneurial element upon whom rests the responsibility of increasing the wealth of Canada in coming years was not heard by the Senate or House of Commons committees.⁴⁵

The dropping of the integration proposal did not mean that there would be no tax reform at all, for there is no doubt that the imposition of a capital gains tax and the removal of the income tax burden from many low-income earners were important steps towards the modernization of Canada's tax system. Nonetheless, integration would have laid the foundations upon which a truly equitable and neutral tax system could have been built in the future. Because of the objections of business and the provinces, Mr. Benson refrained from moving ahead with the most controversial aspect of the White Paper.

As far as small business was concerned, the Finance Committee stated the importance of providing incentives to those enterprises in need of capital to finance expansion. The Committee did not make any specific recommendations as to what type of incentives should be provided, but did suggest that, in

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The Toronto Daily Star, June 21, 1971, p.10.

order to prevent the abuses prevalent under the old system, they be confined to closely-held Canadian companies. This advice was accepted by the Government in its proposal that

a Canadian-controlled private corporation pay a 25-per-cent tax on the first \$50,000 of business income and the general rate on business income in excess of \$50,000... [and that] in order to limit the low rate of tax to small corporations, the legislation provides that once a corporation has accumulated taxable income of \$400,000 the benefits of the low rate of tax will no longer be available. ⁴⁶

4. Business and Property Income

With respect to the treatment of entertainment expenses, the final legislation resembles fairly closely the recommendations of the House Committee. "Reasonable" entertainment expenses for business purposes may continue to be deducted from income; the expenses of attending two conventions a year will continue to be deductible as long as the conventions are held "at a location consistent with the territorial scope of the organization;" finally, the legislation follows the White Paper proposal to disallow deductions for yachts, camps, lodges, golf courses, or membership in "clubs which exist principally for the purpose of providing dining, recreational, or sporting facilities for members." ⁴⁷

The new legislation would treat taxpayers in the professions in the same manner as was recommended by the Commons Committee. ⁴⁸ Income would be calculated on an accrual basis except for that arising from work in progress which would continue to be treated on a cash basis.

⁴⁶

Summary, pp. 37-38.

⁴⁷

Ibid., p.50.

⁴⁸

Ibid., p.51.

With respect to the tax treatment of the mining and petroleum industries, ⁴⁹ the new legislation is basically similar to the provisions of the White Paper and the subsequent modifications announced by Mr. Benson. The recommendation of the Commons Committee to include such things as townsites in the calculation of earned depletion was accepted. The new legislation also provides, as suggested by the Committee, a more favourable transition period from the old system to the new one.

5. Foreign Source Income of Canadians

The final bill is generally similar to the White Paper in the treatment it provides for foreign source income. ⁵⁰ There are some minor differences regarding the date certain provisions come into effect. In these cases the new bill follows the recommendations made by the Commons Committee. There are also some new clauses that cannot be traced either to the White Paper or the Committee Report.

C. Reaction

It is clear that the final income tax reform announced by the Minister of Finance is very limited when compared to the White Paper or to the Carter Report. However, it is no less clear that the House Finance Committee had a very great role to play in the formulation of Government policy on tax reform

The reaction in the House of Commons to the tax reform introduced by Mr. Benson was somewhat predictable. The New

⁴⁹

Ibid., pp. 45-48.

⁵⁰

Ibid., pp. 55-58.

Democrats attacked the legislation for not implementing the major recommendations of the Carter Commission and even of the White Paper. In his response to the budget speech, Max Saltsman did not make reference to the Finance Committee's Report. This is understandable as he had voted against the Report. Mr. Saltsman's basic position was the following:

Anyone in this country who had any feeling for tax reform...must feel a personal sense of betrayal. Tax reform has gone down the drain, and those people will not be silent. The very people we called in as advisers to the committee will not be silent. The hundreds of people who worked for Carter will not be silent. There were some dissenting voices on the Carter Commission, but the vast majority who looked to the government for significant tax reform will have to start the struggle all over again. The Minister of Finance has performed a great juggling act. But the balls he is throwing in the air are made of lead, and they are going to drop on his delicate toes because they cannot be kept in the air. ⁵¹

The Progressive Conservatives adopted a somewhat ambiguous attitude towards the Government's tax reform policy. They approved of the movement away from the White Paper, but at the same time attempted to extract as much political capital as possible from Mr. Benson's retreat from his original position. Marcel Lambert seemed somewhat pleased and noted that "it is rather interesting to see that...the government has accepted the recommendations of the Committee on Taxation." ⁵² But he also aimed a broadside at the Liberal benches:

We had some of the government members on the committee who made statements that had they made them months earlier would have caused them to be shot at dawn.

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Canada, House of Commons Debates, June 22, 1971, p.7234.

⁵²

Ibid., June 18, 1971, p.6909.

Their political futures would have been completely sacrificed because they said a dozen times, 'No, over my dead body will these proposals go through.' It was interesting to see that they were joining the opposition in criticizing the white paper proposals. These members came forward and ultimately boiled down these proposals to a House of Commons Report.⁵³

It is not difficult to understand that as an Opposition member, Mr. Lambert would not want to lose any opportunity to criticize the Government. Nonetheless his criticism was based not on the legislation itself, as was that of the New Democrats, but on the Government having backed down from its original proposals (which he did not like in the first place). While Mr. Lambert's remarks may have been good politics, they did not contribute to a furthering of the White Paper process.

Governments do not deliberately and knowingly set traps into which they themselves will fall. White Papers are supposed to be instruments whereby participation in policy formulation is extended from the bureaucracy and the Cabinet to the public and even to the Opposition. If the White Paper process is going to work, then criticism will have to be based on the end product and not simply on the fact that the Government might accept policies different from its original proposals. Participation demands a new outlook from the Opposition as much as from the Government.

Liberal members greeted the tax reform legislation with the enthusiasm that is expected from government supporters. Their speeches praised the proposals not only for their contents

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Ibid., June 22, 1971, p.7223.

but also for the way in which they were brought forward.

Robert Kaplan stated that:

It is important to note that taxes have never before been reformed in this manner. I think Parliament should be grateful and should acknowledge that the Minister of Finance paid careful attention to the work and the report of the House Committee which considered tax reform...The proposals show that the work we did was taken into consideration, and I think the minister deserves a tribute for this recognition.⁵⁴

Gordon Blair (Liberal, Grenville-Carleton) was chairman in 1968 of the Special Committee on Procedure of the House of Commons which recommended an increase in the power of Parliamentary Committees. In his opinion,

...the new [tax reform] proposals represent a triumph of democracy. I am quite convinced that they have been advanced as a result of important work done by the House of Commons Committee on Finance. We are all indebted to the members of that committee for their work and their report, because it undoubtedly provided the effective foundation for the budget.⁵⁵

Other Liberals spoke in much the same manner as did Mr. Kaplan and Mr. Blair, but some attempted in particular to show that the result of the White Paper was legislation based not on the views of special interests, but on the views of all Canadians.⁵⁶ However, Transport Minister Donald Jamieson seemed to come much closer to the truth than did many of his backbench supporters. He recognized that tax reform did not represent an unmitigated triumph of participatory democracy. In a very thoughtful and important speech, Mr. Jamieson said,

I wish to deal with this business of being heard and the problems of what is commonly referred to as involvement or participation. Something else which the white paper on taxation and the exercise

⁵⁴

Ibid., p.7247.

⁵⁵

Ibid., June 23, 1971, p.7303.

⁵⁶ See, for example, Ibid., p.7312; Ibid., June 25, 1971, p.7336, and p.7341.

demonstrated is that, in fact, the participation process is far from perfect. What happened is that it provides amplification for the organized rather than the disorganized. In fact, the participation process to which all of us subscribe and advocate at every level and every opportunity has to be defined still further so that we do not get a situation where the powerful and those who have a strong voice are simply given more opportunity to be heard and make a louder amplification of their views while the so-called disorganized and non-affiliated remain in their frustrating silence.

If we are going to carry on with what I believe to be an essential need in our society, that is, to get a proper and balanced feedback from the community at large, what we have learned from the exercise on tax reform is that the government must accelerate what we are doing, contribute and help those groups such as the poor and what I call the deprived, the native groups of various kinds and others who would not normally have the opportunity to get in what is loosely referred to as their two cents worth. ⁵⁷

Mr. Jamieson really pinpointed the main issue. There is no doubt that the public participation in the debate on tax reform did have a significant effect on the final output. The doubt that should be voiced concerns the representativity of the public participation.

Outside of Parliament, the tax reform proposals produced considerable jubilation amongst the most vociferous critics of the White Paper. In an analysis sent out to all its offices, the large investment company, A.E. Ames Limited, stated that "Tax reform has turned out to be a 'cookie monster' rather than a real monster....Ottawa has retreated on all the aspects of the White Paper which attracted widespread opposition. Hardly anyone expected such a basic retreat."

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Ibid., June 29, 1971, p.7447. (For a discussion of the type of participation that occurred during the hearings of the House Finance Committee, see above, pp.87-89).

The business editor of the Globe and Mail wrote an article entitled "Ottawa Tax Mandarins Lose Out on Reforms" in which he praised the Government for listening to criticism of the White Paper and suggested that, "what is most needed in Canada right now is strong continuation of what has recently been called participatory democracy, but what in effect is a return to the true tradition of parliamentary democracy." 58

"Eighteen months ago, we set out to discover whether citizen action can influence the political system. We have proved it can." Such was the comment of John Bulloch, the founder and president of the Canadian Council for Fair Taxation, an organization which was established to fight the White Paper and to act in Mr. Bulloch's words "as a watch-dog of all the values that have created and maintained the free enterprise system as the economic mainspring of Canada." 59

Another fierce critic of the White Paper, Winnipeg tax lawyer I.H. Asper, was pleased that

Mr. Benson has listened and responded to the critics of his original white paper. His final proposals for tax reform reflect his willingness to accept the principle that government is the servant not the master of people; that no laws are worth writing if they do not have the consent and respect of the governed. 60

Finally, there was a report in the Toronto Daily Star which read as follows:

The tax reform bill in Friday's federal budget is an outright victory for business over the taxation theoreticians, says Lionel P. Kent, executive partner of Riddell, Stead and Co., a national firm of chartered accountants.

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The Globe and Mail, June 23, 1971, p.B2.

59

The Toronto Daily Star, June 22, 1971, p.7.

60

The Globe and Mail, June 22, 1971, p.B9.

The tax reform reflects the representations of broadly based business organizations and of the Commons committee on finance, he says. ⁶¹

As for comments and reaction from the disorganized and the non-affiliated, they remained in what Mr. Jamieson called their "frustrating silence."

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The Toronto Daily Star, June 22, 1971, p.14.

CHAPTER FIVE

THE FINANCE COMMITTEE: AN ASSESSMENT AND SOME CONCLUSIONS

It has already been established that the House of Commons Standing Committee on Finance, Trade and Economic Affairs was very influential in the tax reform legislation presented to the House of Commons by the Minister of Finance on June 18, 1971. If the measurement of success of a Parliamentary Committee is to be found in its influence on final government policy, then clearly the Finance Committee was highly successful. It is submitted here that such is an incomplete measurement of success. Committees must not be judged only by the extent of their impact on governmental decisions; they must also be judged by the type of impact they make.

This chapter will be divided into three parts. The first will examine three major aspects of the operations of the Finance Committee and will show that better organization could possibly have resulted in a different type of report; there will be suggestions made which should be considered as applicable to the Committee system as a whole. The second part will discuss some problems of the Committee system that became apparent in the work of the Finance Committee; and the final section will be devoted to a general overview of the role of Parliamentary Committees and of White Papers.

A. Committee Operations

It is not the purpose of this thesis to pass judgment on the social philosophy of the members of the Finance Committee or to quarrel with them for having produced a report consistent with their political beliefs. That a Committee with a relatively conservative majority wrote a relatively conservative report is hardly astounding and does not require further comment.

What does deserve comment is the fact that the Committee conducted its hearings - perhaps unavoidably - in such a way as to rule out any possibility of presenting a Report very much different from what it did submit to the House of Commons. Unless it totally disregarded the briefs presented to it, the Committee could not have recommended a closer approach to equity and neutrality; and unless the Liberal members were willing to humiliate Mr. Benson, the Committee could not have moved much further away from the White Paper than it did.

It is submitted here that it would have been possible for the Committee to have organized itself in such a way as to permit the clear exposition of options other than the one finally adopted in the Report. Whatever the merits of its recommendations might be, the Committee should have been able to choose between several alternatives; it should not have been forced into a position where it had no choice but to produce the Report it did.

The following pages are written with the benefit of hindsight. Much of what is criticized was probably unavoidable at the time. Nonetheless, the experience of the Finance Committee

in tax reform can provide valuable lessons for other committees for the future. The three aspects to be discussed in this section are the role of the staff, the role of public hearings, and the role of the provinces.

1. Expert Staff¹

Non-specialist members of parliament cannot hope to tackle adequately very complex technical issues without expert assistance. The primary function of the research staff of a Parliamentary Committee is to provide the necessary aid to enable the members to fulfil their tasks most effectively.

The staff of the Finance Committee deserves great praise for the way in which it carried out the duties assigned to it.² Many members of the Committee have had especially kind words to describe the performance of their senior advisor, Mr. Ronald Robertson.³ Nonetheless, despite the unquestioned value of the work done by its staff, the Committee did not use its advisors to best advantage. It was prevented from so doing both by problems associated with Parliamentary rules and also by a simple lack of imagination.

Committees can only hire expert assistance when given express authorization to do so by the House of Commons. In the case of the Finance Committee, two valuable months passed between the time the White Paper was referred to it and the time the formalities were completed to enable it to begin to hire its

¹ I have borrowed liberally from valuable suggestions made to me by members of the Committee staff, and I wish here to express my gratitude to them.

² See above, pp 62-63.

³ Information obtained in personal conversations.

advisors. By then, the entire testimony of the Minister of Finance and a part of that of his Departmental officials had been completed, and some decisions as to future procedure had been made.

It is not being suggested here that committees should have a permanent staff of expert advisors. A committee may deal with too many very different matters during the course of a Parliamentary session for the same advisors to be of much use. In other sessions, it may not have very much work and may have little need of outside assistance. For these reasons, it is not necessary for committees to have experts on hand at all times.

What is essential is that committees be able to have staff ready to work as soon as - or even before - a reference is made by the House of Commons. They should have a blanket authorization to hire staff whenever it is deemed necessary. While this would require a considerable increase in the annual estimates which the Speaker brings forward on behalf of the Commission of Internal Economy of the House of Commons, the time has come for Parliament to appropriate the sums needed for it to function effectively. If Parliamentary business is well planned and/or if the chairmen of committees are farsighted enough to have a good idea of what issues they will be dealing with during a session, then it would be possible to seek out in advance potential advisors who would be ready to begin work when required.

The first task of advisors should be to become as familiar as possible with the proposals at hand, with the reasoning behind them, and with possible objections to them. This could be accomplished in discussions with officials of the Department

concerned with the issue before the Committee. The next task would be to hold intensive briefing sessions with committee members in order to make them fully cognizant of what they are considering. The staff of the Finance Committee was hired too late to be able to carry out these two functions.

Public hearings should begin only after the committee members have a good grasp of what they are dealing with. (In the case of the Finance Committee, the public hearings began too early). The role of the Committee staff during the period of public hearings should be much more than summarizing briefs and suggesting questions for members to ask of witnesses. Here, the Finance Committee was singularly unimaginative.

Summarizing briefs is a job for law students, not for highly paid advisors. While the expert staff should definitely prepare questions for committee members, they should also be permitted and encouraged to take part in cross-examination of witnesses especially in cases where doubt can be cast on the technical accuracy of briefs. In taxation, for example, it is very important that faulty economic assumptions not be allowed to pass unnoticed and unchallenged. The Finance Committee should have followed the lead of other committees in allowing selected advisors to take part in the questioning of witnesses.

The preparation of background papers for committee members is important and useful provided that they are read. However, it is likely that they may merely get lost in a mass of paperwork with which the Committee had to content. Therefore, if a choice must be made, it is more fruitful for the expert staff to participate fully in the public hearings than it is for

them to draft background material which may remain unread.

The writing of the final report follows the termination of public hearings. The decisions as to the content of the report are - and must be - those of the politicians. The function of the advisors is two-fold: first, to ensure that members are fully aware of the alternatives available to them and, second, to make certain that the final recommendations are free of technical errors.

It will be recalled that there was considerable debate in the Finance Committee as to whether staff should be hired for the various caucuses or for the Committee as a whole. What happened was that advisors were engaged for the Committee as a whole, but each caucus was able to choose experts from amongst the Committee staff with whom they could consult confidentially on an informal basis.

The solution found by the Finance Committee was a good one and should be adopted in the future, for it combines the reality of political parties with the hope that committees will be able to rise above party to seek out the national interest. It also ensures that experts will be hired on the basis of their knowledge and that there will be no questioning of their professional objectivity.

Finally, consideration should be given to including in the Committee staff an official from the Department concerned with the issue at hand. The function of this official would be to maintain a link between the Committee and the Department. While care should be taken to avoid the latter dictating its opinions to the former, a Parliamentary Committee should not be prevented

from profiting from bureaucratic expertise. An open channel of communication between a Committee and a Department could be very beneficial, for it must be remembered that a successful committee is one which recommends good policies that are later implemented, and not necessarily one which proves total (and fruitless) "independence" from government. Therefore, a Departmental official on the staff could be a very valuable asset to a committee. If there is no official on the staff, then there should be one in attendance at all the meetings of the committee as was the case with the Finance Committee, but he should be available for consultation with the committee and its advisors rather than as a conveyor of information to the minister.

2. Public Hearings

The function of public hearings is both to educate members of the Committee on the issue at hand so that they can best discern the national interest and also to enable individuals and organizations to put forward their views as to what policies should be adopted. As such, there is a need for testimony both from governmental officials and from the private sector.

a) The Public Sector

It is most important that the testimony of the government officials be well conducted because it is from it that the Committee must learn the details of and the reasoning behind the policy proposals being studied. The Committee must be fully aware of the context in which the proposals are made before it receives representations from the private sector. The hearings of government witnesses are so vital to the success of the process that they must be properly prepared and must not be carried out with undue haste.

In the case of the study of the White Paper, Mr. Benson's initial testimony and the first part of that of Messrs. Bryce and Brown took place before the Committee staff had been hired and while members were still obviously unfamiliar with the White Paper. The latter part of the hearings of the officials was better but there was too much of a tendency to get bogged down in details. Had the Committee and its advisors been able to hold briefing sessions in advance, the meetings with the officials might have been more successful. Members might have achieved a deeper understanding of the White Paper, which would have enabled them to be more probing than they were when faced with the criticisms coming from the private sector.

One very positive aspect of the testimony of the civil servants was their willingness at times to go beyond explanations of detail and to enter into discussions of policy. This contributed to a better understanding of the issues involved and deserves to be encouraged in the future.

b) The Private Sector

It is submitted here that testimony from the private sector should serve the dual function of informing the Committee about the implications of policy proposals and of putting forward the views of different groups as to the policies which they would like to see adopted. As far as the Finance Committee was concerned, there was much more "lobbying" than there was "informing".

There is a clear danger (borne out in the case of the Finance Committee) that the making of representations to

government is most likely to serve highly organized and powerful interest groups. The unorganized, by definition, do not submit briefs.

The right of individuals and of groups to make submissions to government is a fundamental part of the democratic process. It is the duty of legislators to examine carefully the submissions which they receive and then to make decisions based on what is hoped to be the national interest. By exercising their prerogative of deciding which briefs to hear orally and which to accept only as written evidence, Parliamentary Committees can organize public hearings on any issue in such a manner as to ensure that the views put forward will be representative of the country as a whole.

The lesson to be learned from the Finance Committee is that private sector hearings should not begin until all briefs have been submitted in writing. Only the best and the most representative ones should be chosen for oral presentation. If the Committee believes that part of an issue has not been fully covered or that significant sectors of society have been left unrepresented, it should invite testimony from outside experts.

The use of expert witnesses can be an effective counterweight to lobbyists, for until the less privileged groups in society can be properly organized, something must be done to make certain that "participatory democracy" does not become simply a tool of highly organized and powerful vested interests.

3. Role of the Provinces

It is clear from the Committee Report and from the

final legislation that the provinces played a very important part in tax reform. The fact that certain provincial governments made direct representations to the Committee and that others agreed to send written documentation could be of significance for the future.

The complexities of modern society do not permit federal and provincial jurisdictions to be separated into "watertight compartments." It is inevitable that many federal policies will directly affect the provinces, and there is a need, therefore, for these policies to be tailored to fit as much as possible the requirements of the provinces. Many unnecessary federal-provincial disputes could be avoided if the Federal Government would ascertain the views of the provinces and incorporate them where possible into its policies before they become law, rather than being forced afterwards to amend laws so as to meet provincial demands.

The experience of the Finance Committee in tax reform suggests that Parliamentary Committees might be useful instruments to promote the development of Federal policies which take into account the wishes of the provinces. The potential role of Parliamentary Committees in working to harmonize federal-provincial relations should not be underestimated.

This section has inferred that had the Finance Committee made better use of its staff, and had it organized its public hearings in a different way, it might have produced a different type of report. At least it would have had the opportunity of so doing. By far the best aspect of the work of the Committee was in the field of federal-provincial relations. The

fact that the provinces were able to use a Parliamentary Committee to persuade the Government to change certain policy proposals might be of considerable importance for the future.

B. Committee Organization

Several problems which can be grouped under the label of "committee organization" became evident during the time the Finance Committee was studying tax reform. This section will discuss four specific questions. The first concerns the appointment and function of committee chairmen; the second deals with time conflicts between committees and the House of Commons; the third is devoted to the question of allocation of time; and the fourth covers the important issue of partisanship on committees. Some of these problems have been partially treated in another chapter,⁴ but each deserves more extended comment here. A fifth issue, that of summer hearings, was dealt with fully in chapter three⁵ and needs no further elaboration.

1. Committee Chairman

One of the pre-requisites for a successful Parliamentary Committee is a chairman who is efficient and impartial. Gaston Clermont handled the Finance Committee in an admirable fashion and contributed greatly to its effectiveness. However, not all committee chairmen possess the qualities of Mr. Clermont.⁶

There is sometimes doubt as to the efficiency of those who receive the chairmanship of a committee as a reward for long service to the party in power and as a consolation prize

⁴ See above, pp 69-74.

⁵ See above, pp 70-71.

⁶ See, for example, W.F. Dawson, Procedure in the Canadian House of Commons, p.204.

for not having attained greater heights. As well, there can be some question as to the impartiality of bright young government supporters who might believe that quick promotions result from demonstrations of strict party loyalty.

In order to provide for good committee chairmen, serious consideration should be given to taking their appointment out of the hands of the government and placing it in those of the Speaker. He would be empowered to choose from a list of members of all parties submitted by the House leader of each party. Such a step would likely result in the removal of doubts as to whether chairmen are impartial or as to whether they act as leaders of the majority party on each committee.⁷

While all committees would no longer be chaired solely by members of the party in power as is now the case (with the exception of the Public Account Committee), a majority of the members of all committees would still be from the Government side of the House. Therefore, the cabinet would not have to fear that an Opposition party chairman might on his own force a committee to take some action which might be completely contrary to the expressed wishes of the Government.

Another way to provide reasonable assurances that a committee chairman will be impartial (although not necessarily efficient) is to have a recognized government leader - in the person of a Parliamentary Secretary - on the Committee. There

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The idea of having a member of the Opposition as chairman of a committee was put forward in 1969 by the Special Committee on Statutory Instruments. See Canada, House of Commons, Third Report of the Special Committee on Statutory Instruments, Mark MacGuigan, M.P., Chairman, (Ottawa: Queen's Printer, October 22, 1969), pp. 76-77.

would then be no need to cast suspicions on the motives of any action taken by the chairman.

In the case of the Finance Committee, there was no Parliamentary Secretary as Mr. Benson did not have one at the time. (Subsequently, Parliament passed legislation enabling all ministers to have parliamentary secretaries). There was no real problem but only because Mr. Clermont was so very obviously impartial. Liaison between the government and its supporters on the Committee was assured by frequent private meetings between Mr. Benson and some of the Liberal members.

Those who argue that committees should be totally independent of the government would likely be opposed to the idea of placing a known "government man" on each committee. Such an objection could be answered in two ways.

First, if other parties have recognized leaders on committees (in the Finance Committee, Mr. Lambert was the chief Conservative spokesman as was Mr. Saltsman for the New Democrats), then surely the Government party is also entitled to have a recognized leader and it is better that he not be the chairman.

Second, it is entirely unrealistic to believe that, under a system of Cabinet government, Parliamentary Committees can be totally independent. A minister who is interested in the work of a committee will be certain that he has a confidant as a member of it; therefore, what is always done covertly might as well be done overtly. And as far as the parliamentary secretary is concerned, his committee experience can serve him in good stead in the carrying out of whatever Departmental duties he may be performing.

2. Time Conflicts Between Committees and the House of Commons

Marcel Lambert pointed out one case where the Finance Committee had an important meeting scheduled at the same time as the House of Commons was to debate a bill of vital interest to members of the Committee.⁸ Such an occurrence clearly must not be tolerated for it destroys the effectiveness of the Committee system.

The Government House Leader must programme Parliamentary business in such a way as to avoid the type of blatant time conflict which was rightly denounced by Mr. Lambert. There should be consideration given to instituting regular adjournments of the House - as suggested in 1964 by the Special Committee on Procedure - to expedite the carrying out of committee affairs. Finally, there may well be a need to reduce the total number of committees in order to avoid all too frequent time conflicts.

3. Allocation of Time

A recurring element in all the difficulties of the Finance Committee was that of time. It is a problem which merits comment because the way in which a committee allocates its time can have a direct bearing on the outcome of its work.

It will be recalled that the White Paper was referred to the Finance Committee on December 19, 1969, and that the Government expected a report at the very latest before prorogation of the House towards the beginning of the following October.

In order to meet the October deadline, the Committee began to hear government witnesses in January, before it had engaged staff and before members had become really conversant

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See above, pp. 68-70.

with the White Paper.⁹ As far as the private sector was concerned, hearings were scheduled before all briefs had been submitted in writing.¹⁰ The result was that the testimony of the minister and of his officials was less productive than it might have been; the private sector hearings were not representative, but often were repetitious, and definitely lasted too long.¹¹

Testimony from governmental officials cannot be useful unless members first have a good grasp of that with which they are dealing. Private sector hearings should be scheduled to be informative and representative; lengthy hearings are not necessarily a guarantee of good hearings. Briefs which are unrepresentative and repetitious often result in recommendations aimed more at greasing the squeaky wheel than at the public good.

It is possible for committees embarking on major studies to allocate their time more efficiently.¹² What is required is for references to committees to be carried over from one session to another during the life of a Parliament. This can be accomplished without changing the Standing Orders if, at the beginning of each new session, a resolution is passed giving committees the right to pick up their business where they left off at prorogation.¹³ If prorogation occurs the day before the convening of a new session, no time need be lost. If such a procedure

⁹ See above, p.78.

¹⁰ See above, p.67.

¹¹ For a discussion of the problems of summer meetings, see above, pp. 70-71.

¹² I am grateful to some of those associated with the Finance Committee for ideas on this matter.

¹³ This occurred in the case of the Special Committee on Environmental Pollution at the beginning of the third session of the 28th Parliament. See Canada, House of Commons Debates, October 13, 1970, pp. 51-52.

is followed, then White Papers and bills requiring extensive committee study should be tabled in the spring rather than the fall, as was the case with the tax reform proposals.

The summer months would be set aside for three specific purposes. First, the private sector would use the time to prepare its representations to the Committee; all briefs would be submitted in writing by the end of the summer. Second, the Committee members would have time to familiarize themselves with the details of the proposals and to ascertain the views of their constituents. Third, the Committee staff would use the time to discuss the proposals with Departmental officials, and also would analyze and summarize the briefs as they are received.

At the beginning of September, the staff and the Committee members should have intensive meetings to discuss the policy proposals and to arrange a schedule of public hearings based on the best and the most representative briefs. It would not be necessary for public hearings to last more than a few weeks, and they could be terminated by the end of October at the very latest.

The drafting of a report would begin shortly after the end of the hearings. There is no reason why a report could not be ready for tabling in the House of Commons by the beginning of the normal Christmas recess. The whole process would take no longer than did the study of the White Paper on taxation, yet it would be much more efficient.

4. Minority Reports

Parliamentary rules do not permit the filing of minority reports because committees are considered to operate

as single entities. In the case of the Finance Committee, the two New Democratic Party members released to the press a well-written and well-thought out dissenting report. It nonetheless had absolutely no impact whatsoever on later events.

It is submitted here that a change in the rules of the House of Commons to allow for the filing of minority reports would result in increased partisanship on committees and would diminish their usefulness and effectiveness in searching for solutions which may be above party. Members who oppose the final report of a committee can make their views known through the communications media and/or by participating in later debates in the House of Commons; they do not need to write their own report.

It must be recognized, however, that there is a totally contrary viewpoint which is opposed to the idea of encouraging bi-partisanship on committees. One of the leading proponents of this position is the British Labour member of parliament, Michael Foot. He believes in the politics of polarization and feels that, "the cosier the committee, the more likely it will be that we shall have bi-partisan politics. Every minister worth his salt knows how to diddle a committee of that nature." ¹⁴

The fundamental problem with the argument of Michael Foot is that it is predicated on the belief that consensus politics is naturally conservative politics. This is patently false. A committee composed entirely of men like Michael Foot would most likely reach a radical consensus on almost any issue.

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Quoted in Ronald Butt, The Power of Parliament, p.366.

If the Finance Committee had been composed of more members like John Roberts, Gaston Clermont and Max Saltsman and fewer members like Alastair Gillespie and Marcel Lambert, it would likely have produced much more progressive recommendations on tax reform than did the actual Committee. Committees can be conservative, moderate or radical. The determining factor is the philosophy of the members, not the fact that they are working together as a committee.

Committee work need not destroy the possibilities for a politics of polarization. A successful committee will bring into the open the different alternatives available for dealing with any particular problem. While the contents of its report depend on the ideological makeup of the committee, decisions as to final policy remain in the hands of the government and are subject to approval by Parliament.

Members who disagree with the report of a committee have the opportunity later of expressing their opinions in the House of Commons. It is interesting that in the Finance Committee, the Conservative members participated in the drafting of the final report but abstained on the vote to approve it so as to maintain complete freedom of manoeuvre in the later debate in Parliament. The position of the New Democrats was clearer in that they did not accept the Report and voted against it. But there is a danger to the success of the Committee system if parties often cannot reach a consensus. This will be discussed in the next section.

C. A General Overview of Committees and White Papers

While some criticism can be directed towards the

Finance Committee for the way in which it conducted its study of tax reform, there is no doubt that it made an important contribution to the final legislative proposals of the Government. As such, it can be seen that Parliamentary Committees are capable of acting effectively in influencing the executive and in participating in the process of policy formulation.

According to Harold Lasswell, "the study of politics is the study of influence and the influential."¹⁵ The major conclusion of this thesis is that it is desirable for Parliamentary Committees to be influential in policy-making and in scrutinizing the actions of the executive only if they can succeed in bringing to the attention of government representatives views of the entire population and not just of powerful interest groups. This is an important challenge for committees to meet, for democracy cannot flourish if some sectors of society feel that the political system is continually unresponsive to their needs and desires.

It would seem that the traditions in Canada of collective ministerial responsibility for public policy militate against the independence of committees. However, this need be so only in areas in which the government has firm views. It is submitted here that it is unrealistic - even if desirable - to consider changing this aspect of the system. But there are always many important issues facing society on which governments do not have determined policies. These are the areas in which committees should operate. Indeed, they should be permitted and

¹⁵ Harold Lasswell, Politics: Who Gets What, When, How (Cleveland: The World Publishing Company, 1958), p.13.

encouraged to seek out fields in which to initiate investigations. House of Commons rules should be changed to enable committees to act on their own without having to wait for references to be made to them.

The more committees operate in areas in which the government has no policy, the more they are likely to be independent. While government supporters will not be feeling restraints, opposition members will be less likely to search for ways of embarrassing the party in power. It is important to stress that the independence of committees depends on all members. If the opposition tries to use committees as just another device to attack the government, then the supporters of the latter will also play partisan politics. Because each committee has a majority of members from the party in power, the use of committees for purposes of partisan politics would lead to their becoming tools of the government.

The fact that the Conservative members of the Finance Committee abstained on the vote on the final report - even though they seemed to approve it - does not augur well for the future of the Committee system. If the only members approving a report come from the government side of the House, then governments will be tempted to dictate the terms of a report to their members. Opposition parties must be careful that they oppose conclusions reached by a committee for reasons of principle and not just for reasons of politics.

What happened in the case of the Finance Committee might be considered as an exception for members were as yet unsure of the motives of the White Paper process. As time goes on it will

become more and more apparent that White Papers should be considered solely as policy proposals and that there is nothing wrong or humiliating for governments to introduce final legislation much different from the original proposals.

It is submitted here that the White Paper idea is a good one, but that it needs refinements and modifications. First, debate on White Papers must be much more representative of public opinion than was the case with the tax reform proposals. Second, White Papers should express general ideas about policy and should not contain a great number of details.

The White Paper on taxation was at once too detailed and not detailed enough. Critics were able to seize on certain relatively unimportant details to succeed in destroying some important proposals. Paradoxically, if the White Paper were more detailed, it might have been possible to separate the essential from the accessories. The conclusion here is that if governments believe that White Papers need detailed explanations, then a draft bill should accompany the policy proposals. Otherwise White Papers should do no more than outline the philosophy of the proposed policy.

Consideration should also be given to changing the nature of White Papers so that - like the British "Green Papers" - they would propose various alternatives rather than one particular solution. This could stimulate a better type of national debate on an issue, and it would leave a government completely free at the end of the debate to introduce whatever type of legislation it saw fit as a result of the public participation in the process.

The problem with the White Paper on taxation was that it gave the impression that a watering down process was necessary before final legislation would be introduced. Any steps to bring tax reform closer to the recommendations of the Carter Commission were totally inconceivable. Use of the "Green Paper" idea might have made such an option possible even if political realities would have made the adoption of such an alternative impossible.

All things considered, the process of tax reform in Canada was of great significance to the future of Parliamentary Committees and of the White Paper process. The House of Commons Standing Committee on Finance, Trade and Economic Affairs assumed a task unprecedented in the history of Canadian Parliamentary Committees. That it would make many mistakes was inevitable, but on the whole it was a considerable success. The work of the Committee and the lessons to be learned from it could be of great consequence for the future of the Canadian political process.

BIBLIOGRAPHY

Primary Sources

- Benson, Honourable E.J., Minister of Finance. Proposals For Tax Reform. Ottawa: Queen's Printer, 1969
- Benson, Honourable E.J., Minister of Finance. Summary of 1971 Tax Reform Legislation. Ottawa: Queen's Printer, 1969.
- Canada, House of Commons Debates.
- Canada, House of Commons. Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs Respecting the White Paper on Tax Reform, Gaston Clermont, M.P., Chairman. Ottawa, October 1970.
- Canada, House of Commons. "Fifteenth Report of the Special Committee on Procedure and Organization", Journals of the House of Commons of Canada, December 14, 1964.
- Canada, House of Commons Standing Committee on Finance, Trade and Economic Affairs. Minutes of Proceedings, 1969-70.
- Canada, House of Commons. Standing Orders of the House of Commons, October, 1969. Ottawa: Queen's Printer, 1969
- Canada, The Standing Senate Committee on Banking, Trade and Commerce. Report on The White Paper Proposals for Tax Reform, The Honourable Salter A. Haydon, Q.C., Chairman, Ottawa, September 1970.
- The Royal Commission on Taxation. Report of the Royal Commission on Taxation. Ottawa: Queen's Printer, 1967.

Secondary Sources (Books and Reports)

- Bagehot, Walter. The English Constitution, with an Introduction by R.H.S. Crossman. Fontana Library Edition, London: Watts, 1964.
- Butt, Ronald. The Power of Parliament. 2nd ed. London: Constable and Company, Ltd., 1969.

- Canadian Tax Foundation. Report, 1967 Conference on the Report of the Royal Commission on Taxation. Toronto, 1967.
- Canadian Tax Foundation. Report, November 1967 Conference. Toronto, 1968.
- Canadian Tax Foundation. Report, 1970 Conference on the White Paper on Proposals for Tax Reform. Toronto, 1970.
- C.C.H. Canadian Limited. White Paper on Tax Reform, Summary of Public Hearings 1970. Toronto, 1970.
- Crick, Bernard. The Reform of Parliament. 2nd ed. London: Weidenfeld and Nicolson, 1968.
- Dawson, R.McGregor. The Government of Canada, revised by Norman Ward. 4th ed. Toronto: University of Toronto Press, 1963.
- Dawson, R.McGregor. The Government of Canada, revised by Norman Ward. 5th ed. Toronto: University of Toronto Press, 1970.
- Dawson, W.F. Procedure in the Canadian House of Commons. Toronto: University of Toronto Press, 1962.
- Fox, Paul, W., ed. Politics : Canada. 3rd ed. Toronto: McGraw Hill Company Ltd., 1970.
- Kruhlak, Orest; Schultz, Richard; and Pobihushchy, Sidney, ed. The Canadian Political Process. Toronto: Holt, Rinehart and Winston of Canada Ltd., 1970.
- Lasswell, Harold. Politics: Who Gets What, When, How. Cleveland: The World Publishing Company, 1958.
- Mallory, James R. The Structure of Canadian Government. Toronto: Macmillan of Canada Ltd., 1971.
- Robinson, A.J., and Cutt, James, ed. Public Finance in Canada : Selected Readings, Toronto: Methuen, 1968.
- Smith, Brock A. The Legislative Role of Parliamentary Committees in Canada: A Case Study of the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service of Canada. An unpublished M.A. thesis, McGill University, 1969.
- Ward, Norman The Public Purse : A Study in Canadian Democracy. Toronto: University of Toronto Press, 1962.

Secondary Sources (Articles)

- Balls, H.R. "The Public Accounts Committee." Canadian Public Administration, VI (March, 1963), 15-27.
- Bishop, P.V. "Restoring Parliament to Power". Queen's Quarterly, LXXVII (Summer, 1970), 149-156.
- Bossons, John. "The Objectives of Taxation and the Carter Commission Proposals." Canadian Public Administration, XII (Summer, 1969), 137-165.
- Franks, C.E.S. "The Committee System of the Canadian House of Commons." Paper presented at the annual meetings of the Canadian Political Science Association, May, 1969.
- Goldsworthy, David. "The Debate on a Parliamentary Committee for Colonial Affairs." Parliamentary Affairs, XIX (1965-66), 191-207.
- Harberger, Arnold C. "A Landmark in the Annals of Taxation." Canadian Journal of Economics, I (1968) 133-194.
- Helliwell, John. "Proposals for Tax Reform : A Review of the White Paper." Canadian Journal of Economics, III (August, 1970), 487-506.
- Hockin, Thomas A. "The Advance of Standing Committees in Canada's House of Commons." Canadian Public Administration, XIII (Summer, 1970), 185-202.
- Hughes, C.J., "The Early History of Standing Committees: 1832-1905." Parliamentary Affairs, II (1948), 378-390.
- Jewett, Pauline. "The Reform of Parliament." Journal of Canadian Studies, I (November, 1966), 11-16
- Lamontagne, Maurice. "The Influence of the Politician." Canadian Public Administration, XI (Fall, 1968), 263-271
- Macdonald, Honourable Donald S. "Change in the House of Commons - New Rules." Canadian Public Administration, XIII (Spring, 1970), 30-40.
- Macdonald, Honourable Donald S. "A Government Look at the New Rules." Politics: Canada. Edited by Paul W. Fox. 3rd ed. Toronto: McGraw Hill Company Ltd., 1970.
- MacGuigan, Mark. "Backbenchers, The New Committee System and the Caucus." Politics: Canada. Edited by Paul W. Fox. 3rd ed. Toronto: McGraw Hill Company Ltd., 1970.

- Mackintosh, John P. "Specialist Committees in the House of Commons : Have They Failed?" The Waverly Papers I (1970), University of Edinburgh.
- Mallory, J.R. "The Uses of Legislative Committees." Canadian Public Administration, VI (March, 1963), 1-14.
- Moore, Milton. "The Carter Report : Some Misgivings." "Canadian Journal of Economics, I (1968), 195-205.
- Musgrave, R.A. "The Carter Commission Report." Canadian Journal of Economics, I (1968), 157-182.
- Page, Donald. "Streamlining the Procedures of the Canadian House of Commons, 1963-1966". Canadian Journal of Economics and Political Science, XXXIII (February, 1967), 27-49.
- Pring, David. "Standing Committees in the House of Commons." "Parliamentary Affairs, XI (1957-58), 303-317.
- Robertson, R.G. "The Canadian Parliament and Cabinet in the Face of Modern Demands," Canadian Public Administration, XI (Fall, 1968), 272-279.
- Smith, Denis. "President and Parliament : The Transformation of Parliamentary Government in Canada." The Canadian Political Process. Edited by Orest Kruhlak, Richard Schultz, and Sidney Pobihushchy. Toronto: Holt, Rinehart and Winston of Canada, Ltd., 1970.
- Walkland, S.A. "Science and Parliament : The Role of the Select Committees of the House of Commons." Parliamentary Affairs, XVIII (1964-65), 266-278.
- Ward, Norman. "The Committee on Estimates." Canadian Public Administration, VI (March, 1963), 35-42.