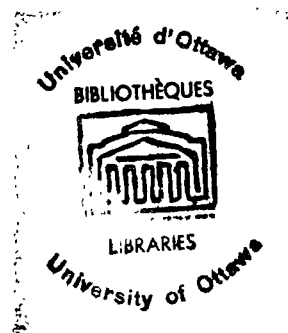


ADVISORY BOARDS AND
RESPONSIBLE GOVERNMENT
IN CANADA

by William J. Dalton

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of Social, Economic and Political
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CURRICULUM STUDIORUM

William J. Dalton was born November 9, 1920, in Halifax, Nova Scotia. He received the Bachelor of Arts degree from Saint Mary's University, Halifax, in 1942. He received the Master of Arts degree from the University of Toronto in 1954. The title of his thesis was Public Utility Regulation in Nova Scotia.

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INTRODUCTION

This thesis is an attempt to assess a single example of the type of extra-constitutional development which has marked the growth of governmental institutions in Canada. The assessment has been made according to a definite standard: the relationship of the use of advisory boards to the philosophical basis upon which parliamentary democracy was established; the terms 'advisory board' and 'advisory committee' have been, and for the purposes of this work are considered synonymous.

The initial impetus for the undertaking came from preliminary work done on the topic by the Ottawa Branch of the Institute of Public Administration. Through the kindness of the executive of this body, the author was able to use a file of returns to a questionnaire circulated to the departments of the Federal government. The availability of this excellent material was of inestimable value in the completion of the study, and shortened the task of assembling the data considerably.

In addition, three unpublished theses dealt with aspects of the problem, and here again the debt of the author to those whose work provided such an excellent point of departure is most gratefully acknowledged.

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The significance of this particular problem in relation to present day conditions is that it provides an opportunity for a critical examination of the impact of twentieth century socio-economic forces upon the framework of representative, responsible government.

The emergence of the group as a major factor in the economic and political life of society has meant basic changes in the structure of government. The present study is an attempt to discover the results of the use of advisory boards in terms of the concept of popular control over government, and the primacy of the public interest - the original basis for the formation of present day parliamentary institutions in Britain and later in Canada.

The major question involved is whether the above-mentioned changes in the structure of government are bringing about a shift of emphasis to the executive branch which would imply that the people and their parliament are no longer the best ultimate judges of the public interest. The yardstick applied was the ability of the people, through parliament, to hold the executive accountable.

Proceeding from the historical origin of the advisory board, the study moves to an examination of the situation on the Federal level in Canada today. From the

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practical implications of the use of advisory boards in terms of representation and responsibility an evaluation of the advisory board in terms of accepted political theory is made. The conclusions are summarized in the final section of the report.

CHAPTER 1

THE PROBLEM

Over the past two hundred years in Canada, the form of government which we enjoy today, representative, responsible democracy, has been evolving. Much of this development takes its roots from the British Isles, where the beginnings of the evolution of modern democracy are traceable to the signing of the Magna Charta in 1215. Other features of our Canadian government have been drawn from the American experiment.

One of the common features of the democracies which exist in Canada, Britain, and the United States, is the fact that the basic framework of government in all three countries was laid down at a time when the concept of the character of government and its proper functions was a far cry from the role that governments in these countries are being called upon to play today.

Constitutions, either written or unwritten, are essentially a framework for delimiting the scope of government and establishing the basic relationships between the various organs of government, both in relationship to each other, and to the people, in whose name, and by whose authority, they are said to act in a democracy. The

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pressure of changing circumstances has fundamentally altered the demands on government; each change in the direction of additional activity has brought a need for expansion of its apparatus. For the most part, the devices of government that have evolved have been outside the formal framework of the constitution, and have been adopted as expedients to meet new circumstances as they have arisen. The aura of respect that surrounds the constitutional framework has made governments loathe to resort to a process of formal amendment.

It is not the aim here to go into the reasons for the tremendous growth in the activities of government witnessed in the last fifty years. Economic and sociological developments, along with two world wars have brought about conditions which were never dreamed of by those who drew up the constitutions of the modern democracies. How governments have sought to cope with the problems presented by these circumstances, while at the same time retaining the basic elements of liberal democracy has been the subject of much discussion on the part of modern political theorists. In these discussions, some have voiced fears that the expedients adopted have led further and further away from the original ideas that form the framework of democratic theory. Some observers, indeed, have voiced the fear that

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the substance of democracy has been systematically (although perhaps unconsciously) eroded to the point where doubts as to the survival of democracy in the generally understood meaning of the term are in order.¹

While there has been a fairly intensive examination of the aforementioned development in Great Britain, and the United States, little or nothing has been done to throw light on the dynamic side of Canadian politics, although excellent works deal with the broad aspects of Canadian political theory and the formal structure of government.

The British North America Act, which serves as the basic written document of the Canadian constitution, was drafted almost one hundred years ago. Events since that time have wrought the most fundamental changes, and have resulted in the adoption by successive governments of many devices and methods of dealing with problems on an ad hoc basis. The result here, as elsewhere, has been a growing sense of being swept along in paths which would seem to offer dangers to democracy, without anyone having any clear idea as to the point beyond which we must not proceed if the fundamentals of democracy are not to be lost. The need will

¹ Cf. Joseph Schumpeter, Capitalism Socialism and Democracy, New York, Harper and Brothers, 1950, 431 p.

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be apparent for a realistic appraisal of these ad hoc devices, not in terms of efficiency, but in their relationship to the basic concepts of responsibility and representation, which form the foundations of democracy in this country.

The purpose of this work will be to single out one of these devices, the advisory board or committee; to examine its development, its purpose, and attempt an appraisal along the lines suggested above. The reasons for the selection of advisory boards are the increasing growth of the use of these boards in the democracies and the fact that they present a particularly interesting problem in terms of democratic political theory.

Briefly stated, the problem for the political theorist is this: the reconciliation of the practice of the use of advisory boards (composed in part of those neither employed by nor elected to government) with the principle of the responsibility of the government to the elected representatives of the people. Under the Cabinet form of government, the responsibility of both the Legislative and Executive branches is achieved by making the heads of the various departments of government, who must hold seats in the legislature, responsible to the elected representatives of the people in Parliament. By this

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method it is intended to ensure that both those who frame and those who carry out policy are under the control of the electorate.

What becomes of this protection, when, in the process of making policy, the policy makers call to their assistance, persons whose major qualification for participation is that they are the representatives of some particular group with a special interest in the policy being framed? Since they are neither answerable to the electorate, nor in the pay of the government, i.e. under the control of a minister, it is obvious that if they have a responsibility it is to their own particular group. While they may, indeed, take a broad general view which is consistent with the public good, this is by no means assured; and no machinery exists to bring these people into a position where they must share the responsibility as well as the authority of the government.

For the purpose of this study it will be necessary to limit our scope severely, in order to avoid becoming lost in the much larger questions of delegated powers and legislation by the executive, of which the question of advisory boards is only a single aspect. Further, since in theory, at least, advisory boards composed in their entirety from within the civil service of a single

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government and the elected representatives of that government present no problem as regards responsibility, only those committees composed in whole or in part of persons neither elected to nor employed by the government will be considered. Under a federal system, the case of boards set up to advise the federal government, composed of members drawn from the provincial or state levels, even when these members are elected or paid government representatives, would seem to fall within the group to be investigated. While they do stand in a position of responsibility to the electorate, it is only a portion of the electorate for which federal policy is being drafted. Some reference must, therefore, be made to this type.

The method to be followed will not be primarily one of cataloguing and defining these committees from the point of view of public administration but, rather, of seeking the reasons for their creation, the method of their appointment and the impact of their work on the theoretical foundations held to constitute the bulwark of democracy.

If, as many hold, the use of these boards constitutes an extension of the principle of representation which has the effect of bringing the activities of government more closely into line with the true desires of

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the public, then this should be acknowledged. If, on the other hand, the use of the advisory board constitutes a danger, proximate or remote to the essentials of democracy, then this danger should be clearly defined, so that in using the device, the necessary precautions against the danger may be taken.

Much has been written of the danger of our democratic form of government being whittled away unbeknownst to the public, under the pressure of circumstances. Some have even held that the exigencies of the twentieth century cannot be dealt with under the old concepts of liberal democracy. Whatever the case, the political theorist has a duty to present a factual picture of the realities so that the course followed may be chosen in the light of all the available facts. If the price of "Big Government" is to be the forfeiture of all but a facade of democracy, then the decision to forfeit should be made with a full realization of what is being done. No one but the electorate themselves should have the right to surrender their control over the government.

CHAPTER II

HISTORICAL BACKGROUND

Although the old nineteenth century theories on the basic forms of democratic government have been dying ever since the utilitarian theories on which they were based have been discredited by political thinkers, the slogans and ideas that were part and parcel of the original liberal democratic creed have been carried along in our political phraseology. The keystone of the old liberal democracy was the idea of the maximum liberty for the individual, brought about by the corresponding minimization of the restrictive functions of government. While the old liberals realized the need for certain governmental restrictions, these were viewed as a necessary evil at best, and a great deal of rationalization was adopted to make the limitations on individual freedom as palatable as possible. The most popular notion advanced to this end was the idea that the people themselves, through the mechanism of representative responsible government, did the governing. With a rather severely restricted franchise, and the functions of government held to the barest minimum, this point of view was fairly easily bolstered by the political theorists.

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The idea of self-government led to a demand for an extension of the franchise to the classes of persons who were less able to fend for themselves. The natural development from this was for the newly enfranchised public to take the current theories seriously and demand that the government do for them the many things that they were unable to do for themselves. Slowly the idea of equality began to take precedence in the hierarchy of democratic ideas over the idea of liberty. In a certain sense, the history of democracy, both in theory and in practice has been the attempt to reconcile these two seemingly contradictory concepts.¹

The transition from the idealization of complete liberty for the individual, to a growing demand that the government take positive steps to bring about a basic equality between all the citizens of the state is very well outlined in Laski, in a chapter on "Liberty and Equality".²

1 As long as we attempt to make either absolutes they are incompatible.

2 Harold J. Laski, A Grammar of Politics, London, Allen and Unwin, 1934, 672 p.

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He states in part:

The whole quality of my citizenship may be impaired by the manner in which the wealth of the community is distributed; and while I seem to enjoy political freedom, the absence of economic freedom may, in fact, render illusory my hope of a harmony of impulses.³

The demand for the government to take on an increasing number of positive tasks, led quickly to a need for more power on the part of the government to enable it to carry out these functions, and thus the negative state which had been the ideal, was slowly and surely moving to the more positive role with which we are so familiar today.

Concurrently with the growth of the positive functions of government, the growth of the Industrial Revolution brought about the beginnings of the development of 'Big Business'. On the one hand, then, capitalism was trying its wings, on the other government was being faced with more and more tasks demanding the exercise of more and more authority. In the rapid growth of its early years capitalism was also quite vocal in demanding the almost complete freedom from restriction which the old liberal doctrines had prescribed.

³ Ibid., pp. 150-151.

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As might have been expected the government, set up for the purpose of legislation and as little of that as possible, found itself ill-suited to the new role in which it was being cast. With every new task the need for additional personnel with the knowledge and ability to ensure that the policy of the government was carried out became apparent. Slowly, the executive branch of government grew, both in numbers and importance.

At this same time, in the economic world, the business of production was moving ever faster in the direction of specialization. The twentieth century could indeed be termed the century of specialists. With this specialization, the government was faced with the need of making available to itself more and more information of a technical and specialized nature. In order to do this that portion of the executive, which we have come to call the administration or civil service, had to be steadily expanded; and the legislature, called upon to pass laws concerning matters upon which its knowledge was often extremely limited, found itself more and more dependent upon the information provided by these experts. The administration thus came to have an increasing voice, indirectly, in the shaping of positive policy. The legislature could still decide upon the ends to be sought,

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but it was becoming increasingly incapable of designating the means whereby these ends were to be achieved. The public, for its part, having discovered the power of the ballot and the ultimate control it wielded, was no longer hesitant to call upon the government to undertake more and more positive functions as long as the net result was to improve the lot of the majority at the expense of the more self sufficient few. No allegiance to a particular doctrinaire formulation of theory could compete in the public mind against the prospect of their greater material welfare. The end result was to make obsolete the old Jacksonian idea that the functions of the public official were so simple that anyone with normal intelligence could perform them. While the facts of the situation were clear to anyone who had the ability to see, the homage that had been paid to the old liberal ideas had been so excessive that they died hard, and were still being waved aloft on the banners of the competing groups in society long after they had ceased to possess factual significance.

This growing discrepancy between the theory and the facts was the cause for some alarm on the part of the political theorists but, despite their forebodings, the pressure of demands from the masses, coupled with the need on the part of political leaders to marshal votes, swept governments even further along this new road.

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In countries with a Cabinet form of government the reassurance that was needed on the matter of the possible loss of liberty was provided by the role of the Cabinet as the instrument which bridged the gap between the executive and the legislature. Through the Cabinet, the responsibility of the executive to the representative Parliament was maintained. The tradition of Cabinet solidarity, and the fact that, in Parliament, the ministers were to be held responsible to the legislature for the activities of their departments, fulfilled to the satisfaction of most the requirements of popular control.

From 1914 to the present, events moved with amazing rapidity, and the pressure of two world wars and a world depression engulfed the machinery of government still built along the basic model designed to serve the needs of the negative state.

Forced to cope with a host of unusual problems, the machinery of government was augmented by a number of ad hoc devices which were adopted in order to deal as quickly as possible with particular problems as they arose. Parliament was driven more and more to the delegation of authority, and such institutions as the semi-autonomous board or commission, which for reasons of efficiency was removed from a detailed control by the Cabinet, were

evolved. The old tripartite separation of powers rapidly became a thing of the past.⁴

This delegation of legislative and judicial powers to the executive was the subject of much controversy in the period between World Wars I and II. Many saw in the practice a sinister invasion of the democratic bastion. Among the more vocal of the critics was Lord Hewart, of England, who made his criticism the subject of a book entitled "The New Despotism".⁵ Justification for the practice was based largely on a plea of necessity, and the reassertion of the ultimate control of the legislature.

In addition to the trend noted above, the expansion of government activities meant that more and more of the public were to feel the impact of government regulation in their daily lives. Once the lengthening arm of government began to make itself felt, various groups in society became a great deal more interested in government. They gradually demanded as their right a greater share in the affairs of state, and many objected that a Parliament

⁴ For an excellent discussion of this point see J.A. Corry, Democratic Government and Politics, Toronto, University of Toronto Press, 1951, 691 p., Chapter XVI, The Administrative Process.

⁵ Rt. Hon. Lord Hewart, The New Despotism, London, Ernest Benn Limited, 1945, 307 p.

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elected on a basis of a territorial division with single member seats gave the control of the government over to a bare majority while ignoring the minority. Indeed it was even possible to have minority government in terms of the total vote.

A great deal of thought was devoted to the devising of schemes of election that would make Parliament a more accurate reflection of the political complexion of the nation. Over the years, innumerable systems of proportional representation have been put forward; but in the Anglo-Saxon countries, it was felt that the gain in terms of representation of interests would be offset by a greater difficulty in marshalling clear majorities behind a single program. Anything which tended to weaken the hand of government in the face of rising demands for more and more positive government action was clearly no solution.

Another criticism of the current system was aimed at the fact that the representatives of the people were chosen on a basis of geographical divisions. Critics of this system maintained that the vital interests of the individual in government were not based nearly so much on the location of his domicile as they were on the economic factors that governed the making of his livelihood.

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The Corporate State, wherein the representatives to the legislature would be chosen by the various occupational and economic groups within the state, irrespective of their place of domicile, was advanced as the solution to this problem. While the proponents of this system were democrats in good faith, it is interesting to note that the only instances of its acceptance have come in authoritarian or totalitarian regimes.

While the aforementioned problems were being pondered by the theorists, the world of affairs was not standing still. The various economic groupings within society had early learned the advantages of organization, and the power which could be wielded in the political arena by a leader who could speak for a large number, each of whom represented a vote. The more the trend to positive government brought the regulating and restraining hand of government into the affairs of business, labour, agriculture and a host of other groups, the more these groups demanded a voice in government, as groups rather than as individuals.

One of the more interesting features of the emergence of the group rather than the individual as the effective unit in political and economic life is the fact that, while it has been generally conceded that the old

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laissez faire principles of self-determination, self-responsibility, self-liability, and free competition have disappeared as regards the individual, they are still with us as applied to large groups. The following, written by W.Y. Elliott, states this succinctly:

Quite certainly, as Dicey's study on Law and Opinion in England in the Nineteenth Century showed, an electorate that could make its wishes felt in equal terms through legislation would not rest content with laissez faire, but would demand the promotion of group interest and the curbing of the impact of the forms of inequality which that electorate thought to be painful to the dominant interest of majority groups. This led not only to the paternalism that so horrified Dicey, but to collectivism in a very wide range of economic life and to the growth of an increasing demand for eliminating inequalities. Above all, it is group interest rather than atomistic individual interest that became the basis of legislation.⁶

On the one hand, the growing need for the government to seek information and assistance in its efforts to cope with a multitude of new tasks, was matched by the growth, on the other, of well-organized groups in the very fields into which government was moving. One of the results of this development was the realization on the part of the organized interests that they had an excellent opportunity to bring their point of view to the attention of the framers of the policies affecting them. The manifest

⁶ W.Y. Elliott, in Western Political Heritage, Elliott and MacDonald, New York, Prentice-Hall, c 1949, 1027 p., p. 705, (Italics added).

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impossibility for Parliament to possess the necessary specialized information to frame policy in a growing number of fields, made it necessary for it, after having outlined the broad policy objectives, to leave much of the detail to the executive. Even the executive, the minister and his hired experts, were hard put to acquire competence in all the many matters that might fall under the supervision of a single department of government. They discovered however, that highly organized groups, each representing a particular economic or occupational interest, were ready and even anxious to place their expertise at the disposal of government in return for a share in the shaping of policy. One of the mechanisms adopted for bringing this about was the advisory board.

The advisory board, both in Britain, whence it was imported into Canada, and in Canada, was the result of an intensification of the need of government to seek advice from outside its own circles. In the case of Great Britain this development took place to a large extent during the First World War. In Canada the development of advisory boards came somewhat later. According to Pauline Jewett, the earliest creation of a permanent advisory committee in England came in 1904 with the

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appointment of the Committee on Tropical Diseases Research Fund.⁷ This clearly marks the advisory board as a twentieth century phenomenon.

During World War I the use of the advisory board became widespread in Britain, and to quote Vernon and Mansergh, this:

(...)brought the perhaps reluctant initiator of new Government interferences into close association with the persons who were at home in the enclosures he proposed to invade, were fully acquainted with their history in the past, were likely to be affected by their control in the future, and were in a position to contribute co-operation which was vital, or obstruction which might prove fatal, to the application of the methods and expedients which he contemplated.

This is not surprising, in view of the fact that World War I was the first global struggle undertaken by a modern popular government. The demands of total war were so all embracing, that the old concept of the negative state was entirely unable to cope with them. Advisory boards were seized upon as one of the many methods whereby the contributions of many were pressed into the service of the country. They provided a device which could bring to the

⁷ Pauline Jewett, Advisory Committees in Canadian Government, unpublished Master's thesis, Queen's University, 1945, 86 p., p.7.

⁸ Vernon, R.V. and Nicholas Mansergh, Eds., Advisory Boards, A Study of Their Uses in Relation to Central Government 1919-1939, London, Allen and Unwin, 1940, 520 p., p.20.

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service of the government the talents of a multitude of experts in diverse fields.

With the conclusion of the War advisory boards, along with a multitude of other wartime expedients, came in for their share of scrutiny as to whether they were suited to peacetime democratic government. During wartime a country is unified to a degree unknown at other times, and the 'national interest' or 'common good' - the goal of all governments - is much more clearly delineated. The verdict of one such enquiry, insofar as it pertains to advisory boards, is given as follows:

So long as the advisory bodies are not permitted to impair the responsibility of ministers to Parliament, we think that the more they are regarded as an integral part of the normal organization of a department, the more will ministers be enabled to command the confidence of Parliament and the public in their administration of the services which seem likely in an increasing degree to affect the lives of large sections of the community.⁹

It is not surprising, then, to find that in Great Britain, from 1918 on, the use of advisory boards became more and more common. This is in part attributable to the success of these boards in wartime, and partly to the fact that from

⁹ Report of the Machinery of Government Committee, 1918, p. 11, quoted in J.A. Fairlie, "Advisory Committees in British Administration", American Political Science Review, Vol. XX, 1926, at p. 815.

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the end of the First World War government in Britain was engaged in a continual expansion of its sphere of action. Some idea of the growth of the use of advisory boards may be had from the fact that in 1940, J.A. Perkins counted 97 permanent committees in the British ministries and offices of Agriculture, Air, Colonies, Education, Health, Home, Labour, Pensions, Post Office, Scotland, Board of Trade, Transport and Treasury.¹⁰

Turning from Great Britain to Canada, it is found that in this country, the advisory board is of far more recent vintage. Before the Second World War, they are scarcely found at all on the Canadian government scene.¹¹ Failure of the Canadian Government to utilize this device earlier would appear to stem not from any misgivings, but rather from a lack of need. The Canadian Government, up to the outbreak of the Second World War, had interfered much less than the government in Britain in the everyday life of the citizens. Here again, the cause is to be sought, not in any doctrinaire adherence to laissez faire principles, but in the fact that the powers of the federal government were

¹⁰ Perkins, John A., "Permanent Advisory Committees to the British Government Departments", in the American Political Science Review, vol. 34, no. 2, 1940, p. 85-96.

¹¹ Pauline Jewett lists the Advisory Board on Foods, set up in 1907, as probably the first. op.cit., p. 28.

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rather severely restricted by the interpretation placed on the B.N.A. Act by the Judicial Committee of the Privy Council. These interpretations gave the provinces the lion's share of regulatory powers.¹²

In those fields in which the Dominion did establish itself, i.e., agriculture, fisheries, labour and public health, advisory committees were used to some extent. In this regard the departments of Health and Agriculture were the first departments to make significant use of advisory committees prior to 1940.

Postworld War I problems and the depression also gave rise to an extensive increase in the activities of the Department of Labour, and we find an advisory body, the Employment Service Council of Canada, established in 1918. The function of this body was to advise the Minister of Labour in the matter of the administration of the Employment Offices Co-ordination Act. The Council was made up of representatives of Dominion and Provincial Governments,

¹² cf. Jewett, op.cit., pp. 8-11; R. McG. Dawson, The Government of Canada, Toronto, University of Toronto Press, 1954, 667 p., pp. 89-115; F.R. Scott, "The Royal Commission on Dominion Provincial Relations", University of Toronto Quarterly, Jan. 1938.

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employers associations, labour groups and others. In 1920 the formation of similar provincial advisory bodies was undertaken.¹³

In April, 1936, a National Employment Commission was set up. This consisted of seven members and was appointed under the National Employment Commission Act to carry out a national registration and classification of persons on relief, and to investigate, report upon and make recommendations with regard to the unemployment problem. A National Advisory Committee was provided to assist the Commission. This latter consisted of representatives of industrial, occupational, philanthropic and social welfare organizations. It also appointed several subcommittees to assist it. Both the Commission and the Advisory Committees were dissolved in February 1938.

In 1936 a Veterans' Assistance Commission was set up in the Department of Pensions and National Health under the Veterans' Assistance Commission Act of that year. It was empowered to appoint local honorary advisory committees in some of the larger centres. Fifteen of these were appointed, comprising the leading industrialists, employers of labour, business and professional men, and leaders of labour, regardless of political or religious

13 Cf. Jewett, op. cit., pp. 24-25

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affiliations. They reported to the Commission after the completion of studies of the situation in each locality.

In the Department of Health, expert advisory boards were called upon early to assist in the administration of the Patent Medicine, Food and Drug and Laboratory of Hygiene divisions of the Department. The outstanding advisory body in the Department of Health, however, is the Dominion Council of Health, established in 1919.

The following excerpts from an article by T.J.Giles, of the Department, tell the story briefly:

The Dominion Council of Health, sometimes referred to as 'Canada's Health Parliament', is a statutory advisory body to the Minister of National Health and Welfare. It was first established in 1919 and derives its present legislative authority from Section 7 of the National Health and Welfare Act (1944). It is composed of the Deputy Minister of National Health as Chairman, the deputy ministers of health of each of the ten provinces and five appointees of the Governor-in-Council, by tradition selected to represent certain major segments of the population, including agriculture, organized labor, French and English-speaking women's organizations.

The duties and powers of the Council, as formally prescribed by the Governor-in-Council, are as follows:

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1) The consideration of matters relating to the promotion or preservation of the Health of the people of Canada (...)

2) The furnishing of advice to the Minister of National Health and Welfare in respect to the matters provided in Section 5 of the Department of National Health and Welfare Act, relating to the promotion or preservation of the health of the people of Canada, over which the Parliament of Canada has jurisdiction.

.....

The decisions or recommendations of Council are of a purely advisory character and are not binding upon any government or other agency.¹⁴

With the advent of the War, the complexity of the tasks thrust upon the government, coupled with the need for a broad basis of public support, gave rise to two problems:

1) The need for a vast number of experts in many fields.

2) The need, in the interests of public esprit de corps, for government to maintain contact with the governed on a continuing basis.

Many devices were adopted to achieve these two ends, and the advisory boards, flexible and effective, which had found such wide favor in Britain during the First War, were immediately and widely used in those departments where

¹⁴ T.J. Giles, "Canada's Health Parliament", in Canada's Health and Welfare, May 1955, pp. 6-7.

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circumstances made their use feasible. Pauline Jewett gives some idea of the extent of their use: "(...) labour alone, to take one example, has 340 representatives on 124 boards and committees(...)"¹⁵

The extent of the use of advisory boards varied from department to department, but in some instances, such as the administration and control of prices, rentals, and supplies, close touch with the public was vital; and advisory boards offered the only practical, tried method of achieving this. This development is noted by Pauline Jewett:

Particularly in relation to the Foods Administration of the W.P.T.B., numerous committees representing organized groups and general lay opinion have been established. Similarly in connection with the work of the many controllers under the Wartime Industries Control Board (Department of Munitions and Supply) about fifty advisory committees have been set up representative of the people in each particular industry subject to government regulation.¹⁶

The Department of Agriculture has also made extensive use of the advisory board and, like the Department of Health, began the practice in the pre-war period. Research on various projects, often in co-operation with the provincial departments of agriculture led to the setting up of advisory boards for the purpose of co-ordinating efforts. Expansion of research by both the Dominion and the

15 Pauline Jewett op.cit., p.33

16 Ibid. p.34

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provinces led to an extension of this practice. Because of the fact that in Chapter Four, a case study of the Department's use of advisory boards will be made, no further mention need be made here.

In the Department of Labour, a National Labour Supply Council was set up in 1940. It consisted of six representatives of industry and six representatives of labour, with an impartial chairman; all appointed on the recommendation of the Minister.¹⁷ The functions of this committee were assumed by the Minister of Labour's Consultative Committee, consisting of seven employers and seven employees, set up May 27, 1942, to confer with the Minister on all matters of labour policy.¹⁸

On October 25, 1940, an Interdepartmental Committee on Labour Co-Ordination was set up. With the establishment of National Selective Service on March 25, 1942, this Committee was reconstituted to include a wider representation of the departments concerned, together with representatives from both labour and employers. When the National Selective Service was incorporated into the Department of Labour in 1943, the Committee was again reconstituted and became the National Selective Service

17 Labour Gazette, 1940, p. 630

18 Labour Gazette, 1942, p. 506

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Advisory Board. It was expanded to include five representatives of labour, one of veterans and one of women. Five regional directors of Selective Service were also appointed, and in 1944 each one of these was given an advisory board.¹⁹

The Director of National Selective Service was also empowered to set up advisory committees, to be representative of employers and workers, for advice regarding work transfers. Several of these were set up in the pulp and paper, mining, steel and other industries. The construction industry was served by a special committee consisting of nine representatives of employers and nine representatives of labour, which advised the Director, and through him the Minister, with respect to labour supply in that industry.²⁰

With the passage of the Unemployment Insurance Act in August 1940, an advisory body was set up:

¹⁹ Cf. Labour Gazette, 1942, p.402; 1943, pp.314 and 388; 1944, p.1241. Cf also Speech of Hon.Humphrey Mitchell, Minister of Labour, House of Commons, April 28, 1944.

²⁰ Labour Gazette, 1941, p.494; 1942, p.1025, 1412; 1943, p.1614

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To survey continuously and to report to the Governor in Council at least annually on the financial condition of the Unemployment Insurance Fund(...)

It is the function of the Committee to recommend such changes in benefit and contribution as it deems advisable to protect the solvency of the Fund(...). However there is nothing to prevent Parliament from amending the Act in a manner affecting the Fund without the advice of the Committee.²¹

This board was composed of a chairman and six members; two representing employers and two representing labour. The Commission established by the Act was also empowered to set up a National Committee as an advisory body.

This Committee, The National Employment Committee, was set up under the authority of the Unemployment Insurance Act, Section 90.(1940), which gave the Unemployment Insurance Commission the right to establish such a Committee. In a reply to a questionnaire sent out by the Institute of Public Administration, Ottawa Branch, the following details on the Committee were given:

Members are chosen after consultation with organizations representative of workers, and an equal number after consultation with organizations representative of employers(...)

The composition of the National Committee is determined as follows: The members represent the following organizations and are nominated by the central controlling body of each, and appointed by the Commission:

²¹ Sections 84, 85, 86, U.I.C. Act, 1940

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Canadian Manufacturers Association
 Canadian Chamber of Commerce
 Trades and Labour Congress
 Canadian Congress of Labour
 Canadian Retail Federation
 Canadian Legion
 Canadian Federation of Agriculture
 National Women's Organizations
 Canadian Welfare Council.²²

Under the National Committee, five regional advisory committees and forty-five local committees were set up.

The Minister of Labour's Consultative Committee, set up by an Order in Council of May 27, 1942,²³ to confer with the Minister on matters of Labour policy, is interesting in one particular aspect: the members rarely met all together. The representatives to this Committee nominated by the Canadian Manufacturer's Association, the Canadian Construction Association and the Ontario Mining Association generally conferred with the Minister at a separate time from the panel of representatives nominated by the Trades and Labour Congress of Canada, the Canadian Congress of Labour, the Confederation of Catholic Workers of Canada and the Railway Running Trades. Comment on this Committee was offered by R. B. Farrell as follows:

²² Reply from the Department of Labour to a Questionnaire sent by the I.P.A., Ottawa, Ontario

²³ P.C. 26/4430

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A third solution is separate consultation with each interest. The best Canadian example is the Minister of Labour's Consultative Committee. This is a frank admission of defeat. It assumes that there is such fundamental disagreement that combined meetings will do more harm than good. This method of consultation places a heavier burden on the official and the compromise product which emerges may be quite unsatisfactory to both sides.²⁴

Another unique Committee was the Advisory Committee on Reconstruction. This Committee was set up to advise, not a single department, but the Cabinet Committee on Demobilization and Re-Establishment. Eventually it was made responsible directly to the President of the Privy Council.

On September 2, 1941, this Committee was officially constituted as "The Committee on Reconstruction" for the purpose of "collecting, receiving, and arranging information with regard to reconstruction policies in Canada and abroad."²⁵ The Order also provided that: "All departments or agencies of the Government and all officers and employees thereof shall afford to the Committee on Reconstruction all available information falling within its scope and power". The Committee was given the power to make such reports as might be requested by the Cabinet

²⁴ R.B. Farrell, Interest Groups in Canadian Government, Unpublished Bachelor's Thesis, Queen's University, 1947, 249 p., p.144.

²⁵ P.C. 6874

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Committee on Demobilization and Re-Establishment; to call in such experts as deemed necessary and to travel for fact finding purposes, with the consent of the Governor in Council.

In January, 1943, this Committee was again reconstituted by Order in Council,²⁶ which named its members, defined its powers and changed its responsibilities. It was the purpose of the new Committee, on its own initiative, "to make such recommendations and draw attention to such considerations in the field of postwar problems as it may deem desirable". The order further stated that : " the committee shall be responsible to the President of the Privy Council and shall report to him or otherwise as he may direct".²⁷

In December of the same year, (1943) the Committee went out of existence, under the terms of an Order in Council²⁸ which stated in part:

That the unanimous advice and recommendation of the Advisory Committee on Reconstruction, as contained in their final report, was that the time had arrived when detailed responsibility for the reconstruction planning should be undertaken by the full time members of the government staff(...)

26 P.C. 609, Jan. 23, 1943

27 Ibid.

28 P.C. 9946, Dec. 31, 1943

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R.B. Farrell aptly synthesizes the major points of interest in the rise and demise of the Committee in the following paragraph:

It will be noted that this committee did not provide a running commentary on Government policy. It was a report-making advisory committee. It was asked to study and make recommendations on a specific subject. It did so and closed down. If more were expected of it the pressure of all the main groups in the country for representation would probably have become intense and the net product would likely have been a force so powerful it might threaten Cabinet discretion and responsibility. As it was, committeemen were selected more on a basis of ability than representation although some tribute was paid in selection to the representative principle. It was obviously impossible to push it beyond a tribute to principle.²⁹

The foregoing, although not an exhaustive treatment, gives a general account of the advisory board and its uses in the business of government. In noting the rapidity with which it became an integrated part of the Federal Government machinery in Canada under the pressure of the Second World War, the process seems to be the experience of the Government of Great Britain during the First World War repeated twenty-five years later.

²⁹ Farrell, op.cit., p. 111.

CHAPTER III

ADVISORY BOARDS IN CANADA TODAY

While the survey in the preceding chapter offers ample evidence of the extent of the use of advisory boards during the period studied, it must be remembered that this period was, in its latter portion, one which saw the country engaged in total war. This raises a pertinent question; how reliable a test of the advisory board as a permanent part of the peace time machinery of government does it provide? During a period of war the government has its whole attention focused upon objectives that find little or no opposition, and the normal clash of opinions so characteristic of parliamentary democracy is almost entirely abated. Many wartime expedients, looked upon as both normal and wise in war, cannot be justified under peacetime conditions. On the other hand, of the mass of devices adopted under the pressure of wartime, it is to be expected that any which have demonstrated real utility will be maintained if possible.

The present chapter will attempt, by a study of postwar developments in the matter of advisory boards at the federal level, to follow the fortunes of the advisory board in order to discover the facts necessary for a later

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evaluation of the future potential of the Board in Canadian government.

At this point, it might be well to consider again a few basic notions, so that the facts of the situation as outlined in the various departments of government may be interpreted more discerningly.

As stated in the previous chapter¹, the development of the advisory board had two principle causes:

- 1) The need for government to seek outside advice.
- 2) The demand by groups newly affected by positive government activity for a voice in policy formation and administration.

The first of these reasons has been largely responsible for the rapid growth of the use of the advisory board during the war periods. In normal times, however, it is to be expected that only those groups with power enough to carry considerable political weight would succeed in maintaining a continued strength of position. While popular caricatures of the 'bureaucrat' do violence to the truth, it is hardly deniable that under normal conditions the professional administrator feels a certain reluctance to invite outside participation in his domain.

1 Supra pp.17-19.

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The following excerpts from Pauline Jewett and R. B. Farrell would tend to confirm this judgment. (It is interesting to note that Miss Jewett's study was completed during wartime, while that of Mr. Farrell belongs to the postwar period). Miss Jewett remarks as follows:

As long as the administration is concerned only with securing factual knowledge, it is not difficult for it to secure and accept outside advice, for there is no great difference between its ideas and those of outside experts. When, however, the administration attempts to regulate matters which affect the interests of individuals and groups in society, conflicts arise between the views of the interests being regulated and the views of the department or agency enforcing the regulations. It is only natural that administrators should want to get on with their job, with as little interference as possible from the outside(...). Yet, if they do not have the support of the parties directly concerned, and the confidence of the public, they are charged with using bureaucratic methods, and of disregard for the public interest. Furthermore, if they do not avail themselves of the knowledge and experience of the various groups being subjected to their regulations, they cannot arrive at the most satisfactory decisions.(...)²

The analysis of R.B. Farrell, stresses the second of the influences mentioned above as contributing to the postwar use of the advisory board.

2 Jewett, op.cit., p.62

The attitude of administrators to interest groups varies from department to department. A large proportion of those consulted by the writer felt it was a bad thing for administrators or even Cabinet Ministers 'to respond to pressure from private interests'. They felt that their duty was to think independently of group interests 'for the people as a whole'. There seemed to be an assumption that it was their job to represent the truth and that the last source where that truth could be found was 'private interests' (...). It is interesting to observe that those departments where the importance of interest group information is admitted are those in which the group interest is so powerful it cannot be ignored.³

With the above in mind, it will be the purpose of this chapter to examine the situation in the various departments of the federal government since the war. The material upon which this chapter is based is drawn largely from a series of replies to a questionnaire sent to all departments of the government at Ottawa by the Institute of Public Administration, Ottawa Branch, as a preliminary step to a complete study, and very kindly made available to the author.⁴ A survey by departments, with the exception of the Department of Agriculture, which is dealt with at some length in a separate chapter, follows.

3 Farrell, op.cit., p.127, (Italics added).

4 Cf. Appendix I.

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1. Department of National Defence

This department supports by grant, several associations of military and naval personnel which have as their aim the co-ordination and the promotion of the interests of their respective branches. These are of little interest in this study.

Over forty advisory committees and panels have been established under the general direction of the Defence Research Board. Security reasons forbid the statement of the terms of reference and functions of these committees. The general nature of their duties is outlined in the reply to the questionnaire circulated by the Institute of Public Administration as follows :

The Advisory Committee structure of the Defence Research Board is designed to co-ordinate for the Board the defence aspects of research activities in the various fields of pure and applied science where developments of vital interest to defence will occur. One of the most important functions of the committees and panels is the consideration of grants-in-aid of research at universities and the recommendation of specific grants in pursuance of the Board's overall policy in this field.⁵

A Military Studies Committee composed of University personnel carries out the following functions:

⁵ Memo from the Department of National Defence to the Institute of Public Administration June 16, 1954.

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1) Considers the general military training problems of the Canadian Universities and provides for joint discussion of these problems between the universities and service representatives.

2) Examines regular and reserve officer training plans in the light of university experience in their operation.

3) Advises the services accordingly with a view to facilitating the development of officer production plans.

4) Assists universities in advising young men regarding service careers.

2. Post Office Department

The only use of committees or boards in this department is an occasional consultation with the Canadian Board on Geographical Names.

3. Department of Citizenship and Immigration

In this department there are three committees where outside personnel are utilized.

The first of these is the Commission on Citizenship and Immigration which was formed on January 1, 1947 with the passage of the Citizenship Act. This Commission was appointed as an advisory body to the Minister in determining

whether or not the citizenship of a naturalized Canadian was liable to revocation in accordance with the conditions set forth in the Act. The members of the Commission are not required to have any special or particular qualifications except that it has been a practice generally to appoint a member of the legal profession.

A Committee on Scientific Problems of Indian Affairs was established in August 1949. The purposes of this Committee are given as the provision, for the officials of the Department of Indian Affairs, of information regarding relevant research projects being undertaken in the Social Sciences; the promotion of necessary research projects; the suggestion of experts to advise and guide Department officials and the work of advising officials on the best means of promoting better human relations between Indians and other Canadian groups.

Two other committees in this department-of little concern in this study-are the National Industrial Design Council, established in 1954, and the Board of Trustees to the National Art Gallery of Canada, established in 1913.

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4. Department of Veterans' Affairs

In May 1945, an Advisory Committee on University Training for Veterans was set up to advise upon:

- 1) Policy with regard to contributing to additional counselling, instructional and administrative costs incurred by Canadian Universities in their service to discharged personnel.
- 2) Policy with respect to undergraduate and post graduate training outside Canada.
- 3) Policy with respect to ensuring that suitable Canadian University facilities are used to the fullest extent.
- 4) Other problems that may arise as demobilization proceeds.

While this Committee was dissolved after 11 meetings, it was highly commended by the Minister of Veterans' Affairs who stated at the final meeting:

Again I do want to express my personal thanks and the thanks of my department for your devoted efforts in the past. They have helped greatly with the success of the programme. It will be the hope of all of us, of course, that a Third World War will be avoided(...) it should again become necessary to provide educational opportunity on as vast a scale as followed World War II, I do hope that we may count on you again giving the Department the same service you have already given.⁶

⁶ Memo submitted by the D.V.A. to the I.P.A.

With the establishment of a Division of Social Services in the Department, it was felt that, since this was a new departure, the policy should have the sanction of a group of professional social workers as well as accredited national organizations. The committee, called the Advisory Committee on Veterans' Social Services, was established in January 1947.⁷ It was summoned only as deemed necessary by the Department. The tendency under such terms of reference in a smoothly running organization is to work along without the committee except in cases of major change of policy or an emergency.

In 1948 the Advisory Committee was called to consider and approve a revised policy which has formed the basis of the Social Service Division up to the present.

Finally, a series of ReEstablishment Credit Advisory Committees were set up across the country in November of 1944.⁸ As the name implies, these were established to advise the Minister (when requested) on the qualifications of the applicant and the soundness of the venture proposed by the applicant. This system was revoked

7 P.C. 185, Jan. 28, 1947.

8 P.C. 8404, Nov. 1, 1944.

in March 1952 and a committee consisting of not less than two nor more than three employees of the department superceded it.

5. Department of Northern Affairs and National Resources

Mr. R.G. Robertson, Deputy Minister of the Department outlined the advisory bodies to this Department as:

- 1) Historic Sites and Monuments Board of Canada.
- 2) Committee dealing with the status of Barren Ground Caribou.
- 3) Sub Committee on Eskimo Education.
- 4) Associate Committee on Forest Fire Protection.
- 5) Seed Grain Advisory Board for the Province of Manitoba.
- 6) Seed Grain Advisory Board for the Province of Saskatchewan.
- 7) Seed Grain Advisory Board for the Province of Alberta.
- 8) Advisory Committee on Silvicultural Research.
- 9) Advisory Committee on Research of the Forest Products Laboratory, Ottawa.⁹

⁹ Memo from the Department of Northern Affairs and National Resources to I.P.A.

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In a later letter, dated August 3, 1954, Mr. Robertson added the Committee on Eskimo Affairs, which, he stated, had been inadvertently omitted from the previous list. This committee was the parent committee of the Sub Committee on Eskimo Education mentioned above.

Consideration will be given here only to these two Committees on Eskimo Affairs, as the more technical committees do not admit generally of any widespread latitude on policy matters.

The Committee on Eskimo Affairs was established informally by the Minister in May 1952, to discuss the problems connected with the administration of Eskimo Affairs and to obtain the co-operation of those directly concerned with dealing with them. It was to meet twice annually as considered desirable by the Department at Ottawa.

At the same time as it was established, it set up a Sub-Committee on Eskimo Education as an advisory board to co-operate with the Department of Northern Affairs and National Resources. The minutes of the main committee with reference to this sub-committee read as follows :

The Educational Sub Committee will consist of Mr. J.G.Wright, Chairman; Reverend G. Laviolette, representing the Roman Catholic Mission; Reverend Canon H.S.Cooke, representing the Anglican Mission; The Superintendent of Education, Department of Northern Affairs and National Resources and a representative from Indian Affairs Education Services, to be named(...)¹⁰

As a result of the recommendations of this Sub-Committee the establishment of a tent hostel at Coppermine, the development of a special curriculum for use in Eskimo Schools and a new basis for grants to Mission Schools in Eskimo territory have all been undertaken by the department.

6.The Department of Labour

In addition to the advisory boards in this department mentioned in the previous chapter,¹¹ five additional advisory boards were established in the postwar period. The extent of the use of advisory boards in this department would definitely seem to bear out the contention that the use of advisory boards was apt to be more extensive in those departments of government which dealt with the better organized group interests.¹²

10 Ibid.

11 Supra, pp 26-30

12 Supra, p 37

In December of 1947, an Advisory Committee to the Labour Management Co-operation Service was established.¹³ The purpose of the Committee was to assist the Department in the promotion and efficient operation of labour management committees in industry. It was composed of a chairman and eight members; and was set up because the Minister at the time felt that the Labour Management Co-operation Service of the Department should have the advice of a group of men actively engaged in management and industry.

An Interprovincial Committee on Canadian Vocational Correspondence Courses was established under the authority of the Vocational Training Co-ordination Act in 1949. This Committee was composed of a representative from each of the provinces except Prince Edward Island and Newfoundland, and had as its purpose the tendering of advice on courses, determination of which province should prepare any particular course, and the revision of existing courses.¹⁴

With the outbreak of the Korean War, a large advisory Council was established to advise the government concerning the fullest utilization of the manpower of the

13 P.C. 5064

14 Memo from the Department of Labour to the I.P.A.

country with special reference to any emergency that might arise. This committee, composed of thirty-four members, was recommended by the Minister of Labour so that:

"competent representatives from important segments of our national life and from interested government departments (...) might jointly consider and examine manpower problems and related matters and to advise the Minister of Labour (...)"¹⁵

The Committee was called The National Advisory Committee on Manpower. In addition to representation from all interested government departments and from the Unemployment Advisory Committee and the National Employment Committee, 16 non-governmental people were included as follows:

- Four representatives of Labour;
- Four representatives of Employers;
- Two representatives of Industry;
- Two representatives of Agriculture;
- Two representatives of Women of Canada;
- Two representatives of Veterans of Canada.

The Clerk of the Privy Council and the Deputy Minister of Labour were joint Chairmen.

Because of the confidential nature of much of the work of the Council, little or no prominence has been given to some of its activities.¹⁶

15 Ibid.

16 Ibid.

Another large advisory board listed by the Department of Labour, in its reply to the enquiry by the Institute of Public Administration, Ottawa Branch, was the National Advisory Committee on the Rehabilitation of Disabled Persons. This Committee is listed as being advisory to three government departments, Labour, National Health and Welfare, and Veterans' Affairs. The terms of reference of the Committee were broad and it was to "advise on the subject of rehabilitation policies generally, whether in relation to government action or the activities of voluntary agencies(...)"¹⁷

Membership in this Committee was as follows:

One representative from each provincial government;
 One representative from the Department of Labour,
 National Health and Welfare, and Veterans Affairs;
 Six representatives of health and welfare
 voluntary agencies;
 Six representatives of the medical profession;
 Four representatives of organized employers;
 Four representatives of organized labour;
 Four representatives of universities and groups
 especially interested in rehabilitation.¹⁸

While the large membership of this Committee is at variance with the usual norms for effective working bodies, the objectives of the Committee result in a high degree of unanimity and therefore the praise accorded the work of the Committee is understandable.

17 Ibid

18 Ibid

The final Committee to be considered in the Department of Labour is the Apprenticeship Training Advisory Committee. This Committee was established on August 6, 1952,¹⁹ to:

(...) advise the Minister with respect to the promotion of apprenticeship in Canada and the development of national standards with respect to trade designations, course content and certification of tradesmen.²⁰

The membership of this Committee was made up of three representatives of organized labour, three representatives of employers, and representatives of provincial governments with a chairman selected by, and from, the members.

7. The Department of Justice

In the Department of Justice, an advisory committee on Remission Service was established by the Minister in 1953.

The purpose of this commission was to investigate and report upon the principles and procedures followed in the Remission Service and recommend desirable changes. Such questions as indeterminate sentences, supervision of

19 P.C. 3600

20 Memo from the Department of Labour to the I.P.A.

persons on Ticket of Leave, the tests that should be applied in determining when an inmate might properly be released and similar matters.²¹

On January 7, 1959, the Government announced the replacement of this board by a permanent Parole Board appointed by the Government at Ottawa for a term of ten years.

8. The Department of Public Works

In the Department of Public Works, five boards are listed, all dealing with the technical problems of water control.²² No further mention will be made here of these boards in the Department of Public Works, since they are composed of technical personnel and deal with technical problems.

The Department of Mines and Technical Surveys makes use of one advisory board, the National Advisory Committee on Research in the Geological Sciences. This Committee

²¹ Memo from the Department of Justice to the I.P.A. March 18, 1954.

²² Lake of the Woods Control Board; International Osoyoos Lake Board of Control; International Columbia River Engineering Board; International St. John River Engineering Board; International Niagara Board of Control. The list is taken from a memo from the Department of Public Works to the I.P.A.

was established in February 1949, in response to a request from the Canadian Institute of Mining and Metallurgy made to the Minister in 1947. The Committee's function is not to carry out research, but to stimulate research by universities, the Federal Department of Mines, Provincial Department of Mines and other organizations. It is composed of 20 members, selected by the Minister of Mines and Technical Surveys from:

- 1) The larger provincial departments of mines.
- 2) The geological faculties of the universities.
- 3) The Geological Survey of Canada.
- 4) The mining and petroleum industries.

The Committee meets once a year and an Executive Committee of 4 members and a secretary carry on the business of the Committee between meetings.²³

9. The Department of the Secretary of State

In the Department of the Secretary of State the only committee listed in reply to the questionnaire sent to the Department by the Institute of Public Administration was the Trade Mark Law Revision Committee, established on October 28, 1947, by the Secretary of State. The terms of reference for this Committee were set forth in a memo

²³ Memo from the Department of Public Works to the I.P.A.

from the Under Secretary of State as follows:

To make a preliminary study of the suggestions submitted concerning the revision of the Unfair Competition Act, 1932. To secure further views from organizations and from individuals who had an interest in the question. To advise and report upon what arrangements could be made for the drafting of a new statute.²⁴

As a result of the work of this committee, a new statute, The Trade Marks Act was enacted by Parliament in 1953. It revises the law relating to trade marks, replaces the Unfair Competition Act, amends the Industrial Design and Union Label Act and repeals the Shop Cards Registration Act.

10. The Department of National Revenue

The Department of National Revenue, Customs and Excise Division, has one advisory body, the Customs House Brokers Licensing Advisory Committee. It barely qualifies for mention, as it contains only one member from outside the Government service.²⁵

²⁴ Memo from the Under Secretary of State to the I.P.A., March 23, 1954.

²⁵ Memo from the Department of National Revenue to the I.P.A.

11. The Department of Trade and Commerce

In the Department of Trade and Commerce, the Trade Fair Advisory Committee established in 1946 and the Advisory Council of Export Credit Insurance, established in the same year are the only two advisory bodies.²⁶

No advisory committee operate in the Departments of Transport, Finance, External Affairs and Defence Production.

²⁶ Memo from the Department of Trade and Commerce to the I.P.A.

CHAPTER IV

THE DEPARTMENT OF AGRICULTURE, A CASE STUDY

At this point it might be well to pause for a moment and consider some of the basic facts which apply to advisory boards or committees in general, thus facilitating the task of comparing the actuality in the Federal Department of Agriculture with basic principles.

Harold J. Laski, in his "Grammar of Politics", makes certain observations on the function of advisory committees:

The large functions of these committees would be four in number. The committee would be entitled to prior consultation on all proposed bills (...)

The committees, secondly, would be consulted upon general administrative policy (...)

The committees, thirdly, would be empowered to make suggestions (...)

The fourth use to which these committees could be put turns upon a more technical matter (...) What, generally, I suggest is that no department shall issue orders under its delegated powers without having consulted the appropriate consultative committee; and that in the event of an objection from the latter the order shall not be issued without the specific approval of the legislative assembly.¹

Laski, writing in 1926, was describing his own ideal of the functions of advisory boards. It is interesting now to turn to Pauline Jewett, writing in 1945 on the actual use of advisory boards in Canadian government:

¹ Harold J. Laski, op.cit., pp. 380-383.

There are, broadly speaking, four principal categories into which the committees fall according to the purpose they are intended to serve. First, as adjuncts to administration, they provide a means for bringing to government departments and agencies outside knowledge, opinions and attitudes, and for offering advice and assistance on all administrative matters coming within the scope of their terms of reference(...). Secondly, there are committees precedent to legislation which advise on the need for, and form of, legislation and are, therefore, directly concerned with policy which affects their interests(...). Thirdly, as a means for the devolution of administration, local advisory committees are used to bring into government the peculiarly local points of view (...) Fourthly, there are advisory committees whose chief purpose is to coordinate the activities of the Dominion and Provincial governments in fields common to both.²

From the above it is apparent that the advisory board is a device which is capable of a variety of applications in the realm of modern government. For this reason it will be necessary, in stating findings on the question of the advisory boards, to be specific as to the type of board, the reasons for its formation and the use to which it is put. Point of view is also a factor, for an advisory board which functions well from the point of view of the administrator may leave much to be desired from the point of view of the interest group. While the professional administrator may desire docility in an advisory board, this

² Jewett, op.cit. pp. 56-58

state of affairs would scarcely be long condoned by a powerful group interest with a foot in the governmental door.

To this point, nothing has been said of the Federal Department of Agriculture, one of the departments which has made the greatest use of the advisory board. In fact, it contains excellent examples of so much of the theory behind the growth of the use of advisory boards, that it was left to be considered at greater length in a case study, which will be of benefit in providing illustrations for their general appraisal as instruments of democratic government. The Department of Agriculture is peculiarly suited to this, because of the fact that it has its counterpart in the provincial governments.

The principle motives for the formation of advisory boards are either the need of the government to bring into closer contact with its work the interests concerned or a demand on the part of the governed for a more effective voice in the making of policy. This latter claim is justified on the grounds that, since the activities of a certain government department affect particular groups far more intimately than they do the mass of the electorate, it is only fitting that these groups have more influence than the general voter in the shaping of this policy.

In the Department of Agriculture, the first use of advisory boards was made to bring the knowledge of experts to the service of the department in solving specific problems. Such committees as the Tobacco Research Committee and the Committee on Club Root and Brown Heart of Turnips were among the earliest ventures of the department into the field of advisory bodies. As their names imply it is hardly here that the political scientists would look for any significant dangers to democracy. The importance of these early committees, however, lies in the fact that they constitute a beginning, an initiation of the farmer and the government into the techniques of consultation.

Because of the existence of departments of agriculture on the provincial as well as the federal level, there was often more than one department working on a single problem, and for this reason advisory committees were used to coordinate efforts and prevent overlapping. As both the provinces and the Dominion expanded their research efforts, the need for a permanent organization of this type became more and more apparent, and, accordingly, in July 1933 the National Advisory Committee on Agricultural Services was created. Its members were drawn from all the agricultural departments and many of the agricultural institutions in the country. The following excerpt from a

report forwarded to the Secretary of the Institute of Public Administration, Ottawa Branch, outlines the structure and membership of this committee:

The chairman of the Advisory Committee is the federal Deputy Minister of Agriculture, and the membership also includes the Deputy Ministers of Agriculture of all the provinces, the heads of agricultural colleges and veterinary colleges, the Directors of the five Services of the federal Department of Agriculture, representatives of the National Research Council and of provincial research bodies at work in the field of agriculture, of the Board of Grain Commissioners for Canada, of the Dominion Bureau of Statistics, the agricultural agents for the two railway systems, and the General Secretary of the Agricultural Institute of Canada - in other words, representatives of organizations which provide agricultural services in any considerable way.³

As might be gathered from the numbers involved, this committee is not a policy making body. Up until 1953 it held biennial meetings. In that year, it was completely reorganized and the main committee now meets yearly, with frequent meetings of the Executive, which is made up of the Deputy Ministers from all the provinces. The practice is to have the Executive appoint ad hoc committees to deal with specific problems as they arise. In commenting on the worth of this committee, the report cited above states in part:

³ Memo from Director, Administrative Services, Department of Agriculture, to I.P.A., March 18, 1954.

(...) after two decades of experience, there is general agreement that the Committee is fulfilling a valuable function in preventing overlapping of agricultural services and in pointing up needs.⁴

By far the most important use of the advisory committee in the Department of Agriculture has been the National Agricultural Advisory Committee. The history of this Committee is rich in the type of example that can provide a real insight into the dynamics of the advisory board.

During the early war years, with the agricultural resources of the nation pressed into service along with all the other resources of the nation, the Federal and Provincial Agricultural Ministers used to meet. The organized farmers suggested that they be invited to attend these meetings. In 1940 they were invited to send two observers; in 1941 they sent twelve observers and in the following year they were given a delegation, and its head, Mr. H. H. Hannam, President and Managing Director of the Canadian Federation of Agriculture, was accorded the status of a provincial deputy minister.

⁴ Ibid.- The question here, of course, is not whether a particular device is useful - this is obvious - but whether it is compatible with a responsible form of government. Cf. Chapter 5.

In January, 1943, the Canadian Federation of Agriculture joined with retailers, wholesalers, processors and packers in seeking a meeting with the Federal Cabinet. At this meeting they declared that the food program was bogged down. They asked the Cabinet to draft a better program and to establish a Ministry of Food as in Great Britain. The Cabinet itself was aware of the shortcomings of the agricultural war effort, and they welcomed this participation and aid.

In March of that same year, Mr. Hannam was asked by the Government to become the head of a Food Board. He declined on the grounds that he could not go into the service of the government on a paid basis and remain a representative of the farmers. As an alternative, he was asked if he would be chairman of an advisory committee, and to this he agreed.⁵

An interesting point is raised here: Why should the Canadian Federation of Agriculture prefer to have its influence on the agricultural policy of the nation in an advisory capacity rather than as an active participant. Mr. James Gardiner, Minister of Agriculture at the time, had the following to say on this point in the House of Commons:

⁵ Personal interview with Mr. H.H. Hannam, Ottawa, July 18, 1958.

In addition, the Bill provides for an Advisory Committee. I stated, on a previous occasion, that when appointing an advisory committee to the Food Board it was left to the agricultural producers or the Canadian Farm Federation the question whether they would prefer to have one member on a board of three or five or six or be adequately represented on the advisory committee. After some discussion with their own organization, the President reported to me that they preferred to be represented on the advisory committee(...)

There is an obvious reason - this is one which I suggest myself, and it may not be the reason the Federation would suggest - for selecting an advisory committee rather than a permanent administration board to provide representation for the producers. The best reason I can think of is this - and it is sometimes stated by members of the House. When a producer has been on a board or in a department for two or three years he ceases to represent the producers(...)

In addition, I do not believe that anyone who is in the pay of the government, drawing a salary from the government is nearly as free to criticize the government and so the producers are in a much stronger position when they have adequate representation on an advisory committee where they can give their advice to the government through the Minister or through the board and where the Minister or head of the board can sit in with them and give the views of the government with regard to the matter under consideration. While these matters are discussed in a committee which meets behind closed doors and the advice is given, just as the advice of the officials is given to the government, yet these men are free to go back and advise their own people and give them the reasons why certain things are not being, or are being, done, and their own organizations are perfectly free to criticize the government for anything the government has decided to do after considering the advice given to them by the committee. In other words we do not always follow the advice that is given by the committee, and we seldom follow it one hundred percent.⁶

⁶ Speech of the Hon. J.G.Gardiner, H.of C. Debates, 1944, Vol. VI, pp. 5577-8

In addition to Mr. Hannam as Chairman, the Committee included the nine deputy ministers of agriculture or their representatives, with two other representatives of the Canadian Federation of Agriculture, Mr. W. J. Parker, President of the Manitoba Pool Elevators, and J.A. Marion, President of L'Union Catholique des Cultivateurs de Quebec, both vice-presidents of the Canadian Federation.

It was decided from the outset that the meetings of the committee, as well as the recommendations that it would make to the Minister and the Food Board, would be secret.

In 1944 the representation of the Canadian Federation of Agriculture was increased to four, when the Secretary of the Federation was asked to become Secretary to the Committee.

Participation of the farmers in the war effort was not to pass without its reward, as they had thrown the full weight of their organization behind the government during the conflict; with the return of peace they began to press for continued official recognition. The frame of mind of organized agriculture at the time may be gathered from the following excerpts taken from a pamphlet entitled "Farmers Meet the Cabinet" a copy of the brief presented by the Canadian Federation of Agriculture to the Federal Cabinet in February, 1944:

We trust, too, that adequate provision will be made to safeguard producers from a collapse in prices of farm products in the post-war period. We were gratified to learn that your Government proposes to introduce at this Session of Parliament, an Act to provide floor prices for farm products (...) and express the hope that floor levels with respect to any particular farm product will only be determined after consultation with the proper officials of the Federation.⁷

The brief concludes with the following:

The greater degree of collaboration between Government and organized agriculture during the war years has opened up an avenue of almost continuous contact, which we trust will be maintained during years of peace. We believe that your Government has recognized the benefit shared by both Government and producers as a result of this co-operation in planning national policies affecting agriculture.⁸

In 1947, the Food Board, which had functioned during the war years was succeeded by the Agricultural Prices Support Board. The Advisory Committee became advisory to the newly created Prices Support Board, and at the same time its membership was widened to give greater representation to the organized farmers. Five more representatives of the Canadian Federation of Agriculture were added, all on the recommendation of the various provincial Federations whom they represented. This last move brought the representation of the Canadian Federation of Agriculture up to eight, plus the Secretary.

⁷ Farmers Meet the Cabinet, February 1944.
The Canadian Federation of Agriculture, Ottawa, p.4; Italics added.

⁸ Ibid. p.16

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In 1951, Mr. Erle Kitchen resigned his membership on the Agricultural Prices Support Board itself and became a member of the Committee to represent the interests of the dairy farmers. This made the total membership on the Committee eighteen, of which half were representatives of the Canadian Federation of Agriculture. With the entrance of Newfoundland into Confederation, a representative of the Newfoundland Department of Natural Resources and Agriculture was added, raising the membership to nineteen.

While there are no official terms of reference for the Committee, it has operated on the general basis that it shall act in an advisory capacity to the Minister and the Agricultural Prices Support Board in all matters concerning agricultural production which come under the jurisdiction of the Federal Department of Agriculture. Two meetings, one in the Spring and one in the month of September or October have been held annually since the inception of the Committee.

At the beginning of each meeting, the Federal Minister of Agriculture is invited to open the sessions and he makes preliminary comments on the general situation. At the close of the meetings, the minister returns to receive and discuss the recommendations of the Committee.

During the sessions the Committee has the privilege of calling upon any of the officials of the Federal Department of Agriculture for assistance in providing information

upon which the Committee may base its conclusions.

One of the main features of this Committee has been the fact that the meetings are held in camera. An interesting interchange of views on this point took place at the Annual Conference of the Institute of Public Administration of Canada, at Kingston in 1957, an excerpt of which is here reproduced:

REVEREND J.M. BELANGER: I am not sure that I am quite satisfied in my own mind with the justification given by Mr. Trueman of the confidential nature of these committees. It seems to me that this is rather a justification of the opinion that advisory committees do not reflect public opinion but, rather, reflect the convictions of interest groups. The general belief, however, is that governmental policy(...) should be made the concern of the public (...).

MR. H.L. TRUEMAN: Mr. Chairman, I thought somebody might raise that question, I think the situation is this. If the Canadian Federation of Agriculture wanted to call the Minister of Agriculture on the telephone and say, "We would like to come over to your office and talk to you about a certain problem", and the minister agreed, and when they gathered in his office the conversation was generally considered to be within the four walls, that is something that must go on every day in every government department. This committee is simply an expansion of the visit to the minister's office (...) The result of maintaining the confidential aspect of this meeting is that everybody speaks very freely, from the minister down(...).⁹

⁹ Proceedings of the Ninth Annual Conference, I.P.A., 1957, p. 163.

The explanation rendered by Mr. Trueman seems even on the surface to be entirely inadequate. One would hardly have an office visit which lasted for three days, as do the meetings of the committee in question. Neither would an informal office visit carry the weight of a recognized access to departmental information and personnel. Another point must be noted, i.e., while the committee meets in secret, the fact that it is meeting is not secret and prepared statements are issued to the press.

Although it may be possible to state a case in justification of secrecy, the foregoing does not contain this justification for it is based on a comparison which is not valid.

Another feature of this Committee was the method of appointment of members. In conversations with Mr. Hannam it was learned that while the appointments came from the Government, the actual nominations were made by the Federation.¹⁰ This undoubtedly made for a greater homogeneity, but on the other hand, this practice was itself

¹⁰ Personal interview with Mr. Hannam, July 18, 1958, in Ottawa.

the object of a certain amount of questioning. While a case can be made for the appointment of representatives to such committees by the interest groups themselves, committees where the outside interests are represented solely by the members of a single organization must be rare.

In seeking the reasons for the unusually strong position of the Canadian Federation of Agriculture it would appear that while the initial impetus for the formation of advisory boards, largely to seek information, came from the government, the farmers were not long in realizing that with the avenue to the government open to them it would be foolhardy for them not to press their advantage to the fullest possible extent. Several factors tended to strengthen the hand of the Federation.

During the war, of necessity, the government was placed in a position of having to demand great sacrifices of all classes of people and to abandon completely the laissez faire idea. This led directly to a demand by the farmers for a more influential voice in the molding of policy. Wartime experience was not lost on the farmers, and they realized both their strength, when effectively organized, and their ability to continue their influence. Even before the end of the war, the annual brief to the Cabinet contained indications of the postwar intentions of the

farmers: " We would, however, ask the Government to go further and afford the Canadian Federation of Agriculture the opportunity to recommend nominees to positions on administrative boards(...)"¹¹

The success of the Canadian Federation in pressing its case is attested by the fact that by the end of the war they were represented on some sixteen advisory committees.¹²

In 1949 and again in 1952, the Federation, in its annual brief to the Cabinet, urged that a member of the Board of Governors of the C.B.C. be appointed from the ranks of agriculture, and, further, that the Federation be consulted on the appointment.

In the day to day operation of a department, it is the administrator with whom the public is most often in contact. Under present conditions, it is often the administrator's interpretation of the law, as much as the law itself, which determines the actual working out of policy. This being the case, it is to be expected that an interest group which hoped to exert a telling influence would not neglect to keep its fences well mended in this direction. All the available evidence points to the fact

¹¹ Farmers Meet the Cabinet, 1944, p. 12

¹² cf. Farrell, op.cit., pp 138-139

that the Canadian Federation of Agriculture was well aware of this need. Miss H.I. Jones, in an unpublished thesis on the Canadian Federation of Agriculture makes this rather clear:

The present Deputy-Minister of Agriculture, J.G. Taggart, appeared frequently at meetings early in the history of the Federation as the 'friendly' Minister of Agriculture from Saskatchewan. Although it is nowhere explicitly stated there is some reason to think that it was the C.F.A. which originally recommended him for his first Federal appointment as chairman of the Meat Board. He later became chairman of the Food Board where he must have had a great deal of contact with the C.F.A. officials since there were several Federation men on the Advisory Committee to the Food Board, including Mr. Hannam, who was chairman of the Committee.¹³

And again:

One reason why the C.F.A. has such close connections with the Department is that it has had the opportunity to recommend or approve appointments to several of the boards and agencies associated with the Department.¹⁴

The general high esteem with which the Federation was regarded by the administration and the degree of success which it had in getting its views made into Government policy is understandable. The Federation's own appraisal of its efforts is contained in the following excerpt from the President's Annual Address, 1946:

¹³ Helen I. Jones, The Canadian Federation of Agriculture, unpublished Master's thesis, Queen's University, Kingston, Ontario, 1954, 165 p., pp. 117-118.

¹⁴ Ibid.

While I do not wish to imply that the Federal Government does all the things we ask of them, I must say that we are made to feel by the Prime Minister, the Ministers and the officials in Ottawa, that our presentations at any time are welcome. Generally speaking they are given prompt and considerate attention.¹⁵

While the above refers to the Canadian Federation and not to the board, it is significant that at the time the agricultural representation on the advisory board consisted of the President, two Vice-Presidents and the Secretary of the Canadian Federation.

With such eminent success, it is not surprising that a few persons have questioned the wisdom of so powerful a single-interest group representation, from the point of view of the public good. This questioning even reached the floor of the House, for it was learned in a personal interview with Mr. Hannam that on more than one occasion, Mr. Gardiner, then Minister of Agriculture, was accused of having his thinking done for him by the Federation. The following exchange took place at Kingston during the previously quoted discussion on advisory boards:

¹⁵ H.H.Hannam, as quoted in H.I.Jones, op.cit.
p. 110

MR. C.S. JUVET (Ontario): That brings up this question. Who represents the unrepresented consumers in this deal? (...)

MR. H.L. TRUEMAN: There is a consumer organization, I forget the name of it, which makes representation to us on grading regulations and so on.¹⁶

Later, in the same discussion, Professor J.E. Hodgetts, of Queen's University, makes the following observations on the fact that the Government, through the Advisory Board, was dealing with a single organization as representative of the farmer interests:

MR. J.E. HODGETTS: I gather from Mr. Trueman's comment that as long as the farmers were not prepared to object too strongly, the department itself is still prepared to accept as the official spokesman the one organized group. I would think that this is rather a peculiar situation because not all of our departments are organized in this strictly clientele way.¹⁷

The present Government at Ottawa made basic changes in the advisory committee structure in the Department of Agriculture in 1958.¹⁸ As might be expected, it has been almost impossible to get the facts which would enable a purely objective analysis of the Government's motives, but it would appear reasonable that one of the major causes of

¹⁶ Proceedings, Ninth Annual Conference, I.P.A., 1957, p. 164, (italics added).

¹⁷ Ibid., p. 165.

¹⁸ Statutes of Canada, 1957-1958, Vol. I, Chap. 22.

the greatly reduced access of the Canadian Federation to Government via the advisory committee was its almost unique degree of previous success. While it is impossible to assess the extent of political considerations, it would be safe to say that they played at least some part. An advisory body, which for one reason or another, has been to some extent placed in the position of defenders of policy, to the degree they helped to shape it, might well be feared by a new Minister, confronted by an advisory committee and an administration, both of which reached their position of eminence under a previous government politically hostile. Political considerations apart, however, certain dangers have been pointed up in situations such as prevailed:

(...) when organizations which deserve representation in a given field are singly very powerful it may happen that their combination on an advisory committee will give them such a massive power that they will offer a definite threat to the Department or regulatory agency concerned(...) Charges on this score have been directed against the National Agricultural Advisory Committee.¹⁹

Whatever the significance, the present advisory board does not include a single member of the executive of the Canadian Federation of Agriculture and has been cut to nine members. It does, however, include members from

19 Farrell, op. cit. p. 145

affiliates of the Federation. Two of the members are listed without any organizational affiliation.²⁰

Another significant advisory body, which is utilized by the Department of Agriculture is the Federal-Provincial Agricultural Conference. This came about as a direct result of the Second World War.

During the early years of the war, federal and provincial agricultural officials met several times. When, in 1942, the war was extended to the Pacific, the government decided to hold a conference to deal with food supplies and to set agricultural objectives. Since 1942, similar meetings have been held annually owing to the fact that they have been found extremely useful by the participants. Those in attendance at these meetings include the Federal Minister of Agriculture and representatives from his department; provincial ministers and agricultural officials; representatives of the various agricultural colleges and of the Canadian Federation of Agriculture. While the end of the war eliminated the need for the annual setting of production goals, the conference has now become an annual event due to the requests of the provincial governments and farm leaders, who welcome this opportunity

to review the agricultural situation and consider the prospects for the ensuing year. It has also been able to provide useful information to the farmers and a forum for the discussion of agricultural policies.

One noteworthy difference between the Federal-Provincial Conference and the old National Advisory Board is the fact that the former is open to the press to whom copies of the statements made at the Conference are available, and the results of the discussions are widely disseminated by the Federal Department of Agriculture in its publications. The ultimate fate of the National Advisory Committee, while not conclusive evidence, might lead to doubts as to the long run value of secrecy in the use of advisory committees. In this connection it is interesting to note that although the justification for secrecy is based largely on the assertion that it leads to more effective and frank discussion, the memo from the Department of Agriculture to the Institute of Public Administration which outlines the Federal-Provincial Conference has the following to say:

Discussion of the various reports frequently leads to the consideration of agricultural policies and a frank exchange of views on matters pertaining to Canadian Agriculture.(...)

It is not too much to say that the Conference has contributed to understanding and perhaps to better policies and better administration than would otherwise have been the case.²¹

In the light of the foregoing, it is hard to avoid the conclusion that if the advisory body is to remain de facto an advisory body, there is nothing to be feared from tendering advice or criticism under public scrutiny. If what the memo says is true, then the Federal-Provincial Conference, held publicly, has achieved all that can be expected of the advisory committee; anything more would make of it a policy-making body. This would contravene the popularly held concept of representative, responsible democracy.

The other advisory bodies operative in the Department of Agriculture are much more limited in their scope and have little or no influence on matters of broad general policy. One of these is the Prairie Farm Rehabilitation Committee, established under the Prairie Farm Rehabilitation Act for the purpose of advising the

²¹ Memo from the Department to the I.P.A. Much of the descriptive material contained in the chapter on the advisory committees is drawn from this source.

minister on the best methods to secure rehabilitation of drought and soil drifted areas, and to promote within these areas such practices of tree culture, land utilization, settlement and water use as will ensure the best economic use of such land. Representation on this Committee is given to the three provincial governments of Manitoba, Saskatchewan and Alberta, the three Rural Municipal Associations, the Railways, the Canadian Bankers Association, the Dominion Mortgage and Investment Association, the Hudson's Bay Company and the Federal Department of Agriculture.

Another advisory body, similar in nature to this, is the Maritime Marshland Rehabilitation Advisory Committee. Appointed by the Governor in Council it consists of nine members, representative of Provincial Governments, Associations of marshland farmers and officials of the Federal Department of Agriculture. The purpose of the committee is to aid the provinces in the reclamation of marshlands.

Concluding the examination of advisory bodies in this department we come to a group of small, expert, committees which serve the Science Service and Production Service of the Department. Since these deal with precise technical problems no further mention need be made of them here.

CHAPTER V

ADVISORY BOARDS AND REPRESENTATION

To this point consideration has been given to the genesis of advisory boards, the functions which they perform and a detailed study of these boards in action on the Federal level in Canada. This serves only to provide the essential data for a consideration of the real problem: What relationship, if any, does the use of the advisory board have to the concept of representative, responsible government which underlies the Cabinet system of parliamentary democracy?

The foundations of parliamentary democracy in Canada and Britain are the participation of the citizens in the governmental process and the ultimate responsibility of the government to the citizens. The first of these is achieved by the application of the principle of representation, the second by making the executive authority contingent on the continued support of the representatives of the people in parliament.

Moving along to come to grips with the problem, the next step must be to relate the use of the advisory board to the concepts of representation and responsibility. This is the heart of the matter, for in the last analysis it is upon this basis that the decision as to the suitability

of advisory boards as an adjunct to the cabinet form of parliamentary democracy must be made. In the present chapter the aim will be to examine the representative principle in theory and practice, and then attempt an assessment of the impact made by the use of the advisory board on this principle.

The present form of parliamentary democracy in Great Britain and Canada has evolved over a long period, with little or no predetermination on the basis of dogmatic political theory. From the beginning the problem of the role of government in relation to the citizens, both individually and in groups, has been one of paramount concern, particularly in the economic sphere. It is of the greatest significance that the Industrial Revolution and the evolution of representative, responsible government were concurrent developments; each playing a decisive role in the ultimate development of the other. In examining the development of the present system of representation, it becomes apparent that while the form of representation of the people in government has remained essentially the same over the years, conditions in society and the nature of governmental functions have undergone profound changes.

Realization of these facts has led many to demand a fundamental reorganization of the popular assembly. To date this has not been forthcoming. Before proceeding

to the role of the advisory board, a very brief account of the evolution of representative institutions and an assessment of the charges levied against them will provide the background necessary for an understanding of the problem.

Historically speaking, the representative principle which had previously been used by the Church moved into the political realm in the days of King John.¹ Because of financial difficulties, John wished to enlarge the base of his operations and invited four knights from each shire to sit with the Great Council, an innovation of Norman origin. The purpose of this move has been pointed out by F.A. Ogg:

(...) The point to this move was that the king, in straits for money, had decided to reach down to the lesser landholders, who in the aggregate held much of the wealth of the country, and require them to agree to a royal levy on their possessions; and since they were too numerous to be assembled en masse, the plan was hit upon of having them designate in each shire four of their number to go to Oxford to speak for them. The expedient did not save the situation for John; but it had obvious utility and was not forgotten.²

In the ensuing years, representation at the legislative level was extended to follow the shifting wealth of the nation, first to the newly formed merchant capitalist class and later to the wage earners. The cry of the

1 On this point see F.A. Ogg, English Government and Politics, New York, MacMillan, 1947, 786 pp., pp. 8-13.

2 Ibid, p. 19.

American revolutionaries: "No taxation without representation" gives evidence of the extent to which the privilege of voting had become linked to the obligation of financial support for the state.

A detailed examination of the process whereby power passed from the hands of the monarch into the hands of parliament is beyond the scope of this study, but it must be noted, that until such time as the choice of representatives became the function of the greater part of the population, representation had very little connection with present day democracy. It is not until well into the 19th century that representation can be said to reflect even imperfectly the population. On this point Harold Laski states: "(...) Until 1874 there were no working-men members of the House of Commons at all; until 1906 they were hardly more than a significant handful." ³

The root of the problem of representation lies in the fact that in the beginning and for many years thereafter it was the borough, or geographic unit that was represented. The assumption, based on the society of the time, was that the interests of those living within a geographic unit were to a great extent identical and hence capable of being represented on this basis. While the practice of choosing

3. Harold Laski, Parliamentary Government in England, New York, Viking Press, 383 p., 1938, p.70.

representatives to Parliament on a territorial basis is a longstanding one, it should be remembered that the failure of this system to provide a reliable mirror of what is today called public opinion can be traced to the fact that it was not originally designed to do this. It should not be surprising then, if today, Parliament fails to reflect the growing heterogeneity of the public interest to a greater extent. It is only within recent years, comparatively speaking, that the theoretical goal of Parliament has been seen as that of providing a cross section of the public.

The extension of the franchise to the bulk of the adult population may be traced through the Reform Acts of 1832, 1867, 1885, culminating in the Representation of the People Act, 1918. In this latter Act, the electoral districts of Great Britain were so constituted that each member of the House of Commons represented approximately 70,000 persons. Here is a practical application of the old Benthamite principle that each should count for one, coming at a time when the bulk of the Utilitarian philosophy had been discarded by political philosophers.

The individual had thus become the unit of representation at the very time when the group was emerging as the significant unit in the economic and social life of society. The specialization consequent upon the Industrial Revolution had created new social conditions; improvements

in means of communication and transportation wiped out former territorial isolation of communities and even nations, and the mass of property-less workers sought to counter-balance the concentration of wealth and political power in the hands of the newly formed capitalist class by organizing their own groups. In this latter effort the gradual acquisition of the franchise was to prove a potent weapon.

Early Liberals had taken a very definite stand on the role of the government in the economic life of the country. Mercantilism was replaced by the laissez faire doctrines of Adam Smith. The basis for this stress on the liberty of the individual was the belief that the multitude of individuals, each acting for his own interests, without conscious advertence to the whole of society, would bring about, nonetheless, the greatest possible good for all. Such a philosophy, with its indifference to the plight of the individual amounting to a doctrine of the survival of the fittest was welcomed by the early capitalists because it left them free to pursue their own immediate ends, with no personal responsibility to society. The outstanding victory of the early Liberals came with the repeal of the Corn Laws in 1846. This, however, was to build the alliance that would shift the emphasis of Liberal thought from liberty to equality.

Free trade and the advance of the Industrial Revolution, with its creation of vast urban populations living in unbelievably sub human conditions, pointed clearly to the abyss which yawned between the theory and the practice of laissez faire. The farmers, struck by the repeal of the Corn Laws, joined hands with those workers who obtained the franchise in 1867, to demand the protection of the state in their difficulties. This put the problem of the Liberals squarely, they must either heed these demands for a positive attitude on the part of the state or the growing working class electorate would not be Liberal.

Beginning with John Stuart Mill, the Liberal philosophers began a move towards equality which reached its culmination in the socialist doctrines of the Fabians. Laski's definition of economic liberty contains almost completely the map of the route to be followed by the welfare or positive state:

By economic liberty I mean security and the opportunity to find reasonable significance in the earning of one's daily bread. I must, that is, be free from the constant fear of unemployment and insufficiency which, perhaps more than any other inadequacies, sap the whole strength of personality. I must be safeguarded against the wants of tomorrow. I must know that I can build a home, and make that home a means of self-expression (...). Without these freedoms, or, at least, an access to them, men are hardly less slaves than when they were exposed for purchase and sale.⁴

4. Harold Laski, Grammar of Politics, P. 148.

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Despite these changes in the theory and practice of government, the single member constituency, territorially defined has remained the basis of the selection of the representatives of the people in Parliament. Change has not been delayed for want of criticisms or suggestions, but, in the English speaking world, because of a lack of effective support for the two alternative systems most widely advocated; proportional representation and the corporate state.

Thomas Hare, in 1857, proposed that minorities in the electorate be given the opportunity to obtain representation in Parliament through a device called the single transferable vote, whereby voters indicate their preference for candidates numerically, and their votes are transferred to their alternate choices when their candidate indicated as first choice has received a mathematically determined quota and is declared elected. Although this system, and one called the "list" system ⁵ have both been used in Europe, they have not, as was stated, gained enough support to make any heavy inroads into established Anglo-Saxon practice.

The major difficulty with the system of proportional representation, which accords recognition to almost every significant minority in the electorate, has been that while

5. Under this system a voter casts his ballot for an entire list and the various parties are awarded seats according to their proportion of the total vote. Individual candidates are allotted seats in order of their appearance on the list.

the function of the national legislature is to attend to the national interest, no one party in a multiple party system gets enough seats to enable it to carry out a strong policy. Modern France stands as testimony to the paralysis which can result from such a condition.

Attacking the same problem, but from a different quarter, certain political theorists have attempted to devise a system of elections which would choose the members of the legislature on an occupational rather than a territorial basis. This, they claim, would result in a far more realistic reflection of the real interests of the public. Here, again, however, the end result is a representative body chosen on a basis of difference rather than community of interests. This form of representation would again result in the type of legislature unable to muster strong support behind a single coherent program of legislation. Representatives of particular economic interests could hardly be expected to do other than resist any compromises which would involve sacrifice on the part of those who elected them. The truth would seem to be that the prime need in a society which requires competent, effective government, is a system which tends to minimize rather than sharpen the divisive features of modern economic and social life. Fundamentally the problem lies in the fact that while the ideals which have led to the development of parliamentary democracy have

stressed the essential community of interests of society as a whole, the practical problems which have come to be the direct concern of the positive state have arisen out of the very real differences noted above. The fact that no satisfactory method of recognizing these differences in choosing parliaments has been widely adopted, does not mean that they have not found effective methods of making themselves felt. The real difficulty has been to devise means of taking these differences into account while at the same time maintaining the concept of a national interest, and constructing a central government with the ability to promote this interest.

The foregoing brief account of political and economic tendencies over the past hundred years has significance because it calls attention to the fact that while the long range goals of parliamentary democracy have an ideological basis, the actual apparatus of government, evolved over the years is more the product of the interaction of related socio-economic and political forces than the actualization of any definite political theory. Harold U. Faulkener's reference to the New Deal, initiated by Franklin Roosevelt in an attempt to alleviate the conditions brought about by the Great Depression, illustrates the pragmatic nature of this program which ended the negative state in the United States:

Among other aspects that should be emphasized is the fact that the New Deal began without any over-all or detailed plan. Much of it was experimental, improvised as the months went on, and with few precedents in this country to base it on.⁶

The concrete problems which have been encountered by governments in the twentieth century, calling for immediate solution, have elicited answers of a practical or utilitarian nature, with little or no concern for long run effects or the ability of the solution of the moment to fit into the theoretical framework of the political system. It appears that the Utilitarian school of thought, short lived though it was, has left its mark upon the practical side of political life. This development has undoubtedly been accentuated by the urgency of the problems brought about by the occurrence of two global wars and the most severe economic depression in history within a period of thirty-one years.

Some of these solutions have undoubtedly fitted into the general framework of democratic government and assisted in the achievement of its primary ends. The danger remains, however, that others adopted at times when the democratic philosophy was temporarily obscured by the pressure of war or economic crisis, might serve to solve certain problems, yet if continued, could thwart the long run ends of democratic government. It would be extremely dangerous to assume

⁶ Harold U. Faulkener, American Economic History, New York, Harper and Brothers, 816 p., p. 656

that every innovation that has found favor with the executive or administrative branch of government could be incorporated without question into the general theoretical framework of parliamentary democracy. Because of the fact that the advisory board is a twentieth century innovation which achieved its greatest extension of use during the two wars, a critical examination of the implications of its development upon the basic character of representative, responsible government would appear to be long overdue.

From the outset, it must be emphasized that in this study the criterion to be applied to the advisory board is neither efficiency nor utility, but the suitability of the device in view of the effect it has had or could have upon the principles of representation and responsibility. To this end, the present chapter will set forth the views of the proponents of the use of advisory boards and examine these against the background of practical experience and the criticism of those theorists who see in the use of these boards, real or potential dangers to democratic government as presently conceived in political theory.

Since, as has been seen, some of the most severe criticism of present day parliaments have been leveled on the ground that they fail to provide a realistic representation of the whole electorate, it is not surprising to find that some of the most extravagant claims made on behalf of the use

of the advisory board are made by those who see in it a means of redressing in some measure, the deficiencies of the present system. The proponents of the advisory board maintain that its use permits recognition of the fact that men's occupational interests must be considered, without falling into the pitfalls of the Corporative State. Sir Arthur Salter, writing in the preface to a study of the use of advisory boards in England, puts the case as follows:

The proper use of advisory bodies is the right answer of representative democracy to the challenge of the Corporative State.

A Parliament elected upon a general franchise and a geographical basis is very suitable for the political problems which dominated the scene in the last century .. the gradual extension of equal voting power and the abolition of political privileges and disabilities. But for the specialized economic and social problems of a modern state it is insufficiently expert in itself to control administrative action(...). Democracy is then not ousted but supplemented by the advisory bodies, and will increase, not diminish, its effective participation in Government by their extended use.⁷

Harold Laski makes much the same point, although more succinctly and less extravagantly: "The making of policy, we assume, is the more successful, the larger the number of affected interests consulted in its construction".⁸ In the same volume, Sir Arthur Salter is quoted, and the interesting fact about this earlier quotation is the

7. R.V. Vernon and N. Mansergh, op.cit., preface by Sir Arthur Salter, p.7.

8. H. Laski, A Grammar of Politics, p. 375.

pragmatism of his appraisal of the advisory board in marked contrast to the idealism of the excerpt quoted above:

Committees are an invaluable instrument for breaking administrative measures on to the back of the public. Modern government often involves action affecting the interests, and requiring the goodwill of large sections of the community or of the community as a whole. The action cannot be made acceptable without detailed explanation of this necessity, for which mere announcements in the press are insufficient. In such cases, the prior explanation and assent of committees of representative men, who, if convinced, will carry the assent of the several sections of the community who look to them as leaders, will be of the greatest value.⁹

The above pragmatic and utilitarian appraisal of the advisory board was taken through the eyes of the administrator rather than the political theorist. The contrast between the two quotations from Salter points up the necessity of maintaining theoretical and philosophical criteria in the present study.

Turning to the American scene for a moment, E. Pendleton Herring, while enthusiastic about the prospects of the board, as a democratic device, sounds a note of caution which has definite application in the study at hand:

9. Arthur Salter, in The Development of the Civil Service, p. 220, as quoted in Laski, op.cit., pp. 376-377.

The advisory committee provides a means of introducing the opinion of the governed at a highly strategic point. It is a device for encouraging democracy in administration. At the same time it aids officials in carrying their heavy burdens by offering counsel and criticism. It brings bureaucracy into closer accord with those it must govern. The very intimacy of this contact increases the need for impartiality and integrity on the part of administrators. Here is an institutional contrivance that holds potentialities for good or evil.¹⁰

While many other proponents of the advisory board might be cited, the principal theoretical justification for the use of advisory boards is summed up in the views presented. If the theory contained therein seems scanty, it must be remembered that advisory boards were an accomplished fact before being given any particular attention by political theorists. The tendency for political science to become more pragmatic and confine itself to factual institutional studies has indeed meant that much political theory is an attempt to explain what has happened, rather than to provide a philosophical basis upon which future problems might be dealt with.

Sweeping as the quoted approvals of the advisory board may seem, it is important to remember that they do not alter the fact that the advisory board was not originally adopted as a cure for the ills of the representative system, but as a device to aid the government in meeting certain urgent problems. Having examined the basic claims of the

¹⁰ E.P. Herring, Public Administration and the Public Interest, New York, McGraw Hill, 1936, 416 p., p. 349.

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supporters of the advisory board, it remains necessary now to consider the theoretical implications of the use of advisory boards.

Turning first to the question of representation, the prime consideration is whether or not the opinions introduced by the use of the advisory board, in fact make the decisions reached more representative of all the affected interests than would otherwise be the case.

One of the greatest obstacles in the way of reaching definite conclusions on the question of the advisory board is the lack of uniformity in the boards themselves to date. Widely used as they have been, there has been no attempt to define the exact nature and scope of the functions of such boards, to delimit or formalize their relationship to the executive or the legislature, or to standardize methods of appointment. Similar diversity is found in the uses to which such boards have been put.

The lack of uniformity mentioned above makes it virtually impossible to establish a satisfactory basis for the classification of advisory boards. If the study of advisory boards is to lead to any worthwhile general conclusions, however, some such classification is essential. For this reason, in the remainder of the chapter, consideration will be given to the relationship of the advisory board and representation by grouping the boards under the following

broad general classes, based upon:

- 1) Motives for formation.
- 2) Composition.
- 3) Working conditions.

Motives for formation

The examination of advisory boards in the preceding chapters reveals that they have been formed for many reasons. However, the bulk of these boards were set up for one of the following reasons:

a) The need for the government to bring into its service experts of one sort or another, in order that it may have the necessary information at its disposal to draw up detailed policy. With the increasing technicality and specialization which have marked the twentieth century, this need has become more and more acute. Although the government employs a large number of experts, it cannot hope to include all those needed for the vast number of functions which it has been called upon to undertake.

In the case of this type of board, the initiative for its formation comes from the government and the functions of the board are fairly well defined and dictated by the nature of the need that sparked its formation. Because of the fact that the function of this type of board is the provision of advice or more properly speaking factual information on a particular topic, there is no effort made to achieve any

representative balance and for this reason such boards are of little or no interest here. An example of this type of board is found in the Department of Northern Affairs and National Resources, the Advisory Committee on Silvicultural Research.¹¹

b) For the purpose of giving aid to the government prior to the formation of new legislation. With the new activities of government reaching out and affecting an ever increasing number of individuals and groups this use of the advisory board has become increasingly popular. The tendency was particularly noticeable during the years of the Second World War, when the policies of the government affected directly almost every segment of Canadian life. In a democratic society, the need for the government to enlist the good will and co-operation of the public increases with the extension of the sphere of government activity and the numbers directly affected. When the government is about to embark upon new activities, bringing it into contact with organized sectors of the public, it often desires to obtain the viewpoint of these groups as a prelude to the formation of legislation. The aim in this sort of advisory board is to enable the government to be in possession of the views of those groups who will be the most directly affected by policies at a time when these policies are still in the

¹¹ Supra p. 43.

formative stage. If the policy in question affects a large number, the government may find that it is faced with advice of a conflicting nature from groups whose interests do not coincide. Sometimes the conflict becomes so acute that separate consultation is necessary. This was the case with the Minister of Labour's Consultative Committee, formed in 1942,¹² to bring together on a single board, representatives of labour and management, thus attempting to bring a single voice to the discussion of labour policy. It was found, however, that management and labour could not sit down around the table and function as a unit, because of their directly opposed views on policy. The end result was that the committee did not sit as a whole, the Department held separate consultations with labour and management groups. This amounted to the creation of two single interest groups, which might have suited the interests better, but thwarted the original aim of the government in setting up the advisory board completely. As will be indicated later, the value of a single interest board is open to serious question from the point of view of making policy more representative. There is little doubt that prior consultation can do much to make policy more acceptable to the groups consulted, and in this way more effective, but this is something different from

12 Supra. p.30.

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bringing policy more into line with the wishes and interests of the community as a whole.

In addition to its work in gathering much of the information necessary for the formulation of government policy, the administration is constantly faced with the need to make regulations under the authority delegated to it by Parliament. Public antipathy to administrative regulations is widespread, and it is often wise for the administration to enlist the co-operation of influential groups in selling the public at large the need for a particular line of government conduct. The real motive here is not advice, but protection against the charge of bureaucracy, and an attempt to make the administrative interference more palatable. Unless, however, the administrator is prepared to accord such an advisory board more than token consultation, the result may be that it receives only token co-operation. No group of individuals influential enough to be of real use to the government in this way will consent to become a rubber stamp for a government department. Another difficulty with this type of board, granting that the government is prepared to accept a certain amount of real consultation, is that a board large enough to carry weight with a considerable segment of the public will in all probability be too large to function effectively as an advisory body.

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Another use, mentioned by Pauline Jewett,¹³ to which the administration can put the advisory board, is to bring a measure of devolution and the local point of view into the administration of policy by the use of local advisory boards. Examples of this type of board are the regional and local committees set up to assist the National Employment Committee.¹⁴

c) Advisory boards have also been used as a method of co-ordinating the work of Federal and Provincial governments in those fields in which they have common interests. One of the most outstanding committees of this type is the Federal-Provincial Agricultural Conference;¹⁵ another example is the National Advisory Committee on Agricultural Services.¹⁶ Since the principal function of boards of this type is to prevent overlapping and facilitate co-operation, the question of representation is not so vitally involved.

d) One of the most contentious motives for the formation of advisory boards is as a concession to strong pressure on the part of a powerful interest group. Sometimes the government has formed a board during a crisis, and been almost forced to continue the practice of consultation long after the crisis had passed, because of the successful

13 Jewett, op. cit. p. 58.

14 Supra, pp. 29-30.

15 Supra, p. 73.

16 Supra, pp. 57-58.

pressure of a strong interest group. During the Second World War, the government was faced with serious problems in the field of food production and the optimum use of manpower, and created advisory boards which used the abilities and enlisted the good will of farm organizations and organized labour. With the cessation of the war, these groups were successful in obtaining a continuation of their position through their advocacy of the continuance and extension of the use of advisory boards.¹⁷ In the use of single interest boards, the challenge to the representative principle is most direct.

Composition

The question of the composition of an advisory board is so closely allied to the motive for the formation of the board as to be almost inseparable. From the point of view of representation, which is the concern of this chapter, the composition of the board is indeed the crucial point. The addition that any particular board is able to make to the representative character of government will be directly determined by the nature of its membership. In addition to the actual make-up of the advisory board, the question of the nomination and appointment of the members has considerable significance and will also be considered here.

¹⁷ Supra, p. 63.

As might be expected, the qualifications for membership on a particular advisory board will depend almost entirely upon the motive for the setting up of the board in the first place. In the case of those boards mentioned in the foregoing section of this chapter, whose purpose is to enlist the service of experts on behalf of the government, the only qualification should be the requisite knowledge to provide the necessary information. In most other cases, however, the status of a particular individual within his group will play a decisive role. If the aim of the government, in the formation of a particular board, is to obtain the co-operation of a particular group, then it stands to reason that the choice of representatives from that group will be almost entirely dictated by the extent to which a particular individual can command the respect and co-operation of the group. This leads directly to the key factor in the composition of advisory boards, namely, that it is groups who are given representation. Having noted this, it is convenient here to classify advisory boards in terms of their composition as:

- a. Single interest boards.
- b. Multiple interest boards.
- c. Boards where an attempt is made to mitigate differences between two major interests by the addition of a number of neutral members who can hold the balance of power, so to speak.

Single Interest Boards

While this type of board has the least to recommend it from the point of view of representation, it should be noted that it is a logical goal for any powerful interest group. It would be hard for even the most ardent advocate of the use of the advisory board to contend that the goal of such groups as the Canadian Federation of Agriculture, the Canadian Manufacturers' Association, or the Canadian Labour Congress is the ensuring of more representative government rather than the furtherance of their own particular objectives. Examination of the activities of the more affluent of the interest groups reveals that there is a strong move to identify the interest of the group with the public interest. The single interest type of board is most likely to be found in a department like the Department of Agriculture or the Department of Labour, where the affected interests have achieved a high degree of organization. The danger encountered here because of the modern tendency for the more powerful interest groups in the community to mass the weight of their numbers and financial resources behind the presentation of their views has been noted by E.P. Herring:

Our representative system places in a more advantageous position politically those classes that can better be represented upon a geographical basis. It places in a disadvantageous position those interests which are spread so thinly over the country that they cannot control geographical districts. It militates against classes that are economically weak. It discriminates against interests that are poorly organized and that do not have an immediate and pecuniary stake in governmental affairs. The working of our present democratic machinery is rigged in favor of those interests that happen to fit in with the economic system.¹⁸

A Canadian, David C. Corbett, has also taken note of this same danger. The following quotation is taken from an address given to the Institute of Public Administration of Canada at Saskatoon in 1953:

There is the danger, as we have seen, that access to the department may be monopolized or cartelized by one or a few pressure groups, that their influence may be concealed, and that their interests may be contrary to the public interest.¹⁹

One of the areas where this problem becomes very likely to arise is in those areas which involve the consumer interest. The consumers, taken collectively, are a large amorphous group, and while their interests are real enough, they are among the least susceptible to being organized. Lack of organization leads in turn to lack of funds, which makes it far more difficult for such an interest to counter

18 E.P. Herring, op. cit., p. 257.

19 Cf. David Corbett, "The Pressure Group and the Public Interest", Proceedings of the Fifth Annual Conference of the Institute of Public Administration of Canada, Toronto, 1953, p. 191

the strong pressures of the producer groups, whose interest is far less diffuse and far more readily assessed for the cost of presenting an effective front.

It would be hard to find a more apt illustration of the danger noted here than in the case study of the Department of Agriculture, Ottawa, undertaken in the last chapter. While the representation accorded the Canadian Federation of Agriculture was doubtless effective, there is little evidence that it was, in fact, productive of advice which could be said to be an addition to the representative principle. With a Minister of Agriculture who was himself a farmer, and elected by farmers; with several top level administrators who had been appointed by the government on the recommendation of the Canadian Federation of Agriculture; and with the only representation on behalf of the consumer coming from an organization described by the Director of Agricultural Services as one whose name he forgot;²⁰ it is hard to conceive of the addition made to representation. This problem is particularly acute in the Department of Agriculture, for there is not a citizen in the land who has not a vital interest in the supply and cost of food. It appears that whatever the justification for the single interest advisory board, it cannot be on the grounds of improved representation.

20 Supra, p. 68.

Multiple Interest Boards

In those departments whose sphere of activities takes in a larger number of interest groups, the problem of seeking advice is more complex. It is this problem which has prompted the government in the past to use the type of advisory board which is composed of group leaders who, if they were convinced, could carry a large segment of the public with them. While this technique has been used, particularly in times of crisis, the size of such boards is generally a deterrent to the most effective type of work. The size of this type of board is often increased by the fact that in addition to those the government desires to have represented on the board, other groups may be able to press for representation. One of the most successful uses of this type of board was the Advisory Committee on Reconstruction.²¹ A fundamental dilemma from the point of view of representation, which is faced in the use of the advisory board, is that the inclusion of a broadly representative group on an advisory board will generally enlarge it beyond the point where it has much practical value.

21 Supra, p. 31.

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Conflicting Interest Boards

While this type of board could be included in the multiple interest boards, it presents a problem which has caused a great deal of concern for government, and one to which no completely satisfactory solution has yet been found. For this reason it was thought best to consider it separately.

Departments whose work brings them into constant contact with well organized but opposing interests are often the very ones where the proper use of the advisory board can be of most benefit. Unfortunately, however, experience has proved that in these instances, the result of bringing intransigent interests together on a single board is often stalemate or obstruction. Such advisory boards may indeed heighten rather than lessen tension. The Minister of Labour's Consultative Committee²² mentioned above is an example of this type of thing. Despite the severe limitations on this sort of committee, the devices which have been brought into play to make consultation between such intransigent interests possible, have, in the end, resulted in boards which have been both effective and, to a reasonable degree, representative.

Apart from the separate consultation of such interests, which is tantamount to the construction of single interest boards, the boards have been enlarged so as to place

22 Supra, p. 95.

the conflicting interests on the board in a minority; and the construction of boards with one-third from each of two opposing interests, and one-third neutral members. Neither of these methods has been completely satisfactory from the point of view of representation nor from the results achieved, but the presence of two opposing interests at least gives a safeguard against the danger of a single interest being in a position to capture a government department.

In those instances where the powerful interests on a board are outnumbered by the enlargement of the committee, the result is often to introduce an element of compromise and soften differences. Directly affected interests, however, might well challenge the fairness from the point of view of representation of giving them minority representation. This would have the long run effect of weakening faith in the advisory board. If this happens, the more powerful interests can be relied upon to bypass the advisory board and seek other methods of exerting influence.

Perhaps the most successful method of dealing with the problem of conflicting interests is that adopted by the Labour government in Britain after World War II. Here Working Parties (these were actually advisory boards in the sense used here) were constructed of equal thirds of labour, management, and neutral representatives. These committees were charged with advising the government on organization, distribution,

and production in their respective industries, and a great deal of the credit for Britain's industrial recovery has been attributed to the work they did.²³ The neutral representation on these boards was carefully selected by the government and in many instances included persons from the academic world. The great advantage of this type of board is the fact that there is a real element of balance, while at the same time the interests which are most directly affected are in the majority on the board. A board set up in this fashion should result in the government getting a point of view which would not be marked by excessive claims by the dominant interests.

Another topic, which is pertinent to all the types of boards mentioned, is the method whereby the members are appointed. In considering this, it is important to distinguish between the legal form and the factual situation, for while all members of advisory boards receive their official status by their government appointment, the actual selection of the members is sometimes left almost entirely to the group from which the representation is to come. The extent to which a single group can come to dominate a particular advisory board may be gleaned from the following reference to the National Agricultural Advisory Committee made by the President of the

23 Cf. David Corbett, "The Pressure Group and the Public Interest", Proceedings of the Fifth Annual Conference of the Institute of Public Administration of Canada, Toronto, 1953, p.192.

Canadian Federation of Agriculture: "I am chairman of the Committee, the Secretary of the Federation is secretary of it and they really look upon it as the Federation's Committee..."²⁴

Sometimes the government will make the selection from a list submitted to it by the interest group concerned. Powerful interest groups have been able to receive a great deal of consultation, not only in the matter of advisory board appointments, but also in the matter of appointments made to administrative bodies which deal with them. Refusal of the government to accept a recent nomination by the Canadian Labour Congress to fill a vacancy on the Unemployment Insurance Commission stirred a controversy which revealed the fact that the labour body looked upon it as their right to share in the government's power of appointment. A situation of this type is far more likely to occur in a department like Labour or Agriculture, where one single interest group has almost all the contact with the department. It does not appear that in Canada, a broad enough use has been made of the ideas embodied in the construction of the Working Parties in Britain, just mentioned, whereby the government took great pains to appoint at least certain of the members, so as to ensure a body which might be expected to yield maximum results.

²⁴ H.H. Hannam, "The Interest Group and Its Activities" Proceedings of the Fifth Annual Conference of the Institute of Public Administration of Canada, Toronto, 1953, p. 176. (Italics added.)

Another problem common to all advisory boards, especially when considered from the point of view of their value as an aid to greater representativeness, is whether, in fact, the persons on the advisory board are truly representative of the interests for which they purport to speak. The fact that a group is highly organized and articulate is no guarantee that it is not actually representing only a minority within the sphere of its interest. The policies put forth by the spokesmen of this minority may be far from representing the interests of the entire class. V.O. Key, Jr., has delineated the problem well:

To say that pressure groups perform a representative function is not to assert that the public should not be wary of them. Most groups do not include nearly all persons of the class they purport to represent. The National Association of Manufacturers includes only a small proportion of the manufacturers of the nation. Probably two-thirds of the farmers are not affiliated with any farm organization. Members of pressure groups tend to be the more aggressive, often the more prosperous, or the largest units of potential membership.²⁵

This is a vital aspect of the problem from the standpoint of representation. It is not enough to assert that a group has been accorded representation, if this representation is to have real significance the authenticity of the representatives who take their place on the advisory board must be established. If a trade organization speaks only for

²⁵ V.O. Key, Jr., Politics Parties and Pressure Groups, New York, Thomas Y. Crowell, 1958, 783 p., p. 160.

the larger and more powerful members, the assumption by the government that their representations are those of the entire group would do an injustice to all the smaller members of the group or class, who may predominate numerically.

Working Conditions

The study of actual advisory boards in the earlier chapters reveals that the conditions under which the boards have been used and their methods of operation admit of wide variation. In examining the working conditions of advisory boards the following items are pertinent:

- 1) Does the Board meet at stated intervals, or at the discretion of the Minister or department?
- 2) Is the board a continuing one, or was it set up for a particular task only?
- 3) Are the terms of reference fairly definite in outlining the scope of the board's activities?
- 4) Are the meetings open or held in secret?

The present chapter, dealing as it does with the concept of representation, is concerned primarily with the last of these questions. The others will be dealt with later. The question of secrecy in the deliberations of the advisory board has implications for the study of the representative character of advisory boards. In considering this subject, the case for the secret meeting will be stated, and then examined critically.

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Dealing first with the case put forth by those who approve of the holding of meetings in secret, there is no doubt that certain advantages are gained. It is open to serious doubt however, that these advantages are not outweighed by the less desirable effects of secrecy.

The principal reasons advanced in favour of holding meetings in secret are that the government is thus able to lay before the advisory board information which would otherwise have to be withheld, and the greater freedom of expression which it allows all the members.

Speaking on the benefits accruing from secrecy, Mr. A. Andras, Assistant Research Director, Canadian Labour Congress, makes the following comment:

(...) My own feeling would be that they are justified in meeting in private because otherwise you would get an extreme rigidity of position. The interested party, perhaps, would be playing for the gallery. (...)

In any committee that meets in camera you can have a pretty candid discussion on all of these things and you can give way if you find you are wrong. But not if you are meeting in public. (...) You can retreat only when you can retreat with honour and you can retreat with honour only where you can say things that you know are not going to be in the papers or in some public document the next day.²⁶

The other reason which is advanced in support of the holding of secret meetings is that the government is able to advance more complete information to the committee members.

²⁶ Proceedings of the Ninth Annual Conference The Institute of Public Administration of Canada, pp. 165-166.

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This view was expressed to the writer in a personal interview with Mr. H.H. Hannam.²⁷ Mr. H.L. Trueman, Director of Administrative Services, Department of Agriculture, justifies secret meetings as follows:

It is desirable to avoid publicity. Meetings of the National Advisory Committee on Agriculture, the one that meets with the minister, are confidential, thus providing more freedom of criticism and suggestion, and not committing the minister by implication to approval of things which were discussed.²⁸

Before going on to a critical examination of the above case, it can be granted at the outset that there is certainly some merit in secrecy, but as will be seen, the merit does not lie in the contribution made to a more representative, responsible government.

Dealing first with the assertion that the holding of meetings in secret allows the government to make available to the group information that would not otherwise be available, this implies that the information is of a sort that could not be divulged in the House of Commons, where the Press Gallery is in attendance. If this is the case, then the innocuous nature of the advisory board which its proponents proclaim when the question of their proper role is raised must be re-examined.

²⁷ Personal interview with H.H. Hannam, Ottawa, July 18, 1958.

²⁸ H.L. Trueman, "Advisory Committees in Administration", Proceedings of the Fifth Annual Conference of the Institute of Public Administration of Canada, p. 136.

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On the question of the freedom of discussion which closed proceedings encourages, several interesting points may be raised, directly connected with the principle of representation. The implication by some seems to be that those who represent organized interests, while they admit the need for accommodation and compromise in the working out of national policy, at the same time do not feel confident that their own group would be capable of a similar understanding. To be seen "retreating with honour" would apparently lower their status in their own groups. Members of the legislature are forced to do this daily. If a large important segment of the population is unable to come to grips with the fundamental fact of democracy, then it speaks rather ill for the future. The representatives of organized groups on an advisory board are supposedly there to place the views of their group before the government, but if they are enabled to tender advice which is never known to their group, what guarantee is there that they are reliable representatives? One of the dangers of advisory boards is the possibility that the board may capture the Department, or the reverse. If no publicity attends the proceedings, no real assurance is possible that neither has occurred.

One of the major tasks in the formulation of policy is to ensure that the public interest is not lost in the scuffle. While all groups pay lip service to their concern

with the common good, it would be most reassuring both to the public and to serious students of the political process, if some tangible evidence of the way in which advisory committees helped to achieve this in particular cases were available. It would also appear rather paradoxical that in a time when the public demands that negotiations on the most delicate international matters be carried out almost in public by the heads of state, there is little or no outcry when domestic policy is discussed behind closed doors with those who have a vested interest in the outcome, and no public accountability.

As a final word here on secrecy, it must be stated that the closing of doors of itself makes for curiosity and uncertainty as to what goes on beyond, and the practice can hardly fail to arouse a certain amount of public suspicion which can only lessen the long run value of the use of advisory boards.

Conclusion

In this chapter, some of the considerations that must be taken into account before passing judgment on the value of the use of the advisory board as a partial solution to the problem of providing realistic representation have been examined. The facts as seen upon investigation, while they indicate that certain valuable benefits, representation-wise,

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may be gained by the use of advisory boards, would appear to point up with equal clarity the fact that these are by no means automatic. Without anticipating later chapters, it appears that the degree to which advisory boards contribute to the representative character of government in the administration and formulation of policy is directly proportional to the care taken in setting up these boards to guarantee such composition and working conditions as will maximize these benefits.

CHAPTER VI

ADVISORY BOARDS AND RESPONSIBILITY

Passing from a consideration of the advisory board and representation, the present chapter will be concerned with the key concept in the cabinet form of parliamentary democracy: the responsibility of the government to the people through parliament. The use of the advisory board must be related to this concept, for while the study concluded in the previous chapter is important, it is upon the ability to fit in with the concept of responsibility that a verdict upon the suitability of the advisory board as an instrument of democratic government must be based.

The provision of representation for the citizens, while it ensures that they will be heard, does not ensure that they will be heeded. Under a cabinet form of government such as exists in Britain and in Canada, the cabinet, with its members as heads of the various departments of the executive, and also leaders of the legislature, provides the instrument for the control of the executive by the legislature. The basis for the enforcement of the responsibility of the executive to the legislature lies in the power of the elected representatives of the people in parliament to demand an accounting on the part of the executive, and even to dismiss the executive if its conduct is such as to lose for it

the support of the majority of the members of parliament.

From the outset, it must be made clear that the parliament does not govern. The government or executive governs. The parliament can demand an accounting, criticize and expose weakness on the part of the government. Because of the strength of the party system in cabinet government, the principal criticism of the government comes from the opposition. The executive must seek approval of the elected representatives of the people for its enactments. While it is true that the strength of party discipline almost guarantees passage of the measures presented by the cabinet, still the criticism of the opposition and the questions of individual members require that the cabinet ministers explain and justify their policies. Often in this process, amendments are made which bring policy more into line with the wishes of the whole body of the legislature. An executive which could not or would not explain its policy in the House would greatly endanger its chances of survival at the next election.

To maintain that the executive is responsible to, and ultimately controlled by, the legislature implies that the legislature is competent to scrutinize and understand the legislation submitted to it. The advent of the positive state, with the consequent enlargement of the sphere of government activities, along with the growing complexity and specialization of modern life, has faced today's legislatures with

conditions far different to those with which they were designed to cope. The ability of modern legislatures, designed in an era of laissez faire, to adapt themselves to present conditions without losing their role as the guardians of the public interest, is a question which has been of great concern to political theorists. In the face of the increase in the number and complexity of the tasks of today's governments, the legislature can do little more than delineate the goals that ought to be sought, and the broad framework within which this is to be done, leaving the detailed working out of means to the executive.

The above mentioned developments have led to the rapid growth of the practice of delegating to the executive the right to amplify general legislation by the addition of regulations dealing with the practical application of general principles to particular cases. Many bills today contain a clause empowering the Governor in Council or the Minister to make regulations for carrying out the purposes of the act. The legislature is finding itself confined to considering ends, while the selection and application of means is left to the executive. This problem of delegated legislation is a thorny one, and no more than a passing reference can be made to it here, because it would completely dwarf the particular subject being studied, if it were to be considered

in all its aspects.¹ In this process, the responsibility of the executive to the legislature is maintained by the fact that the minister is responsible for all such delegated legislation in his department.

For all that he, or the members of his department do, the minister has a twofold responsibility. In the first place, because of the nature of the cabinet and the doctrine of cabinet solidarity, he must be able to carry his fellows in the cabinet; secondly, through the cabinet, he must be able to account for his department in parliament. Sir Ivor Jennings sums up the position of the executive in respect to parliament:

Within a department there must be substantial delegation of power, but the most essential characteristic of the civil service is the responsibility of the minister for every act done in his department. In practice, the minister can hardly avoid saying that the mistake was that of a subordinate, but Parliament censures the minister and not the subordinate.²

To return to the advisory board, in the terms of definition adopted at the outset,³ the nature of the problem posed by the use of advisory boards can be clearly seen. While the activities of the executive, both ministers and

1 For an excellent discussion of delegated legislation cf. Corry, op. cit., pp 512-550.

2 Sir Ivor Jennings, Cabinet Government, University Press, Cambridge, 1959, 587 p., pp 498-499.

3 Supra, p.6.

civil servants are within the control of parliament, the advisory board made up in whole or in part of persons neither employed by nor elected to parliament falls outside the chain of enforceable responsibility. When these boards function on what is actually a policy making level, a problem arises in reconciling their function with generally accepted theories of responsibility.

The justification of the use of these advisory boards by those who make the most persuasive pleas on their behalf is based upon two main premises: either that the policy-making function is entirely centred in the cabinet; or that the minister is responsible for all that transpires in his department, including the working of advisory boards. In the light of the investigation thus far, it does not seem prudent to dismiss the question so lightly. The extent to which the executive participates in the making of policy and the control of the minister over the advisory boards will therefore be examined.

While the problem has been dismissed, as has been said, by the assertion that the executive, with the exception of the minister, does not participate in policy making, the facts of modern governmental practice hardly bear out this assertion. R.B. Farrell comments as follows on this problem:

It would be unwise to study the relations between interest groups and administrators either on the assumption that administrators make the most government policy or that administrators have no influence over government policy. The truth lies between the two.⁴

Before proceeding to investigate the above proposition it will be necessary to clarify the meaning of the word 'policy'. Like so many other words in the popular phraseology of political theory and practical politics, it has a vagueness brought about by common usage. Speaking before the Canadian Political Science Association, Professor J.E. Hodgetts had the following to say on this point:

(...) the definition likely to command universal acceptance is 'a settled or definite course or method adopted or followed by a governmental agency or a public official'. Yet this definition has many levels of reference which completely alter its significance. We speak, for example, of agricultural, foreign or fiscal policy and indiscriminately use the same term when we refer to the Treasury Board policy on travelling expenses.⁵

One of the reasons that the term has come to be so vague in connotation is because policy is so often envisaged as something which emerges fully developed and definite. A definition of policy given by K.W. Taylor, a senior official in the Department of Finance at Ottawa, sheds far more light on the actual nature of policy and the role of

⁴ Farrell, op.cit., p. 126.

⁵ J.E. Hodgetts, "The Civil Service and Policy Formation", Canadian Journal of Economics and Political Science, v.23, n.4, 1957, p.469.

the administrator in its formation:

(...) the rapid expansion and growing complexity of modern government greatly increases the importance of administration. This means that policy is not so much a series of conscious decisions, but rather grows out of a stream of administrative decisions. For this reason there seems to be a growing tendency in recent years for lobbyists, the people who want to bring pressure to bear, to direct their attention as much to administrative officers as ^{to} political heads; for if you can get a stream of administrative decisions started in a certain direction it tends to grow into established policy.⁶

H.L. Trueman, speaking at Kingston, referred to the scope of the matters which were considered by the National Agricultural Advisory Committee:

There are no terms of reference for the committee, but the general basis is that it shall act in an advisory capacity to the minister and Agricultural Prices Support Board in all matters relating to agricultural production which come under the jurisdiction of the federal department of agriculture.⁷

Another former civil servant makes a realistic comment on the role of the civil servant in policy formation, after paying the usual homage to the traditional theory: "Civil servants do not make policy ... that is the prerogative of the elected representatives of the people. But in this day and age, civil servants do have a profound influence

⁶ Proceedings of the Fifth Annual Conference, I.P.A.
p. 205. (Italics added).

⁷ Proceedings of the Ninth Annual Conference, I.P.A.
p. 131.

on the making of policy".⁸

Examination of the foregoing evidence, which could be amplified many times, makes it clear that the demands of the positive state have meant an ever increasing amount of power has gravitated to the executive branch. The facts also indicate one of the major features of the problem. Because present day governmental institutional forms have come down from the day of the negative state, with its far greater emphasis on the rigid separation of powers, the idea that policy is made entirely by elected representatives and merely carried out by the executive has become rather a 'sacred cow', to which lip service is still dutifully paid. Top level civil servants, as can be seen in most of their public utterances, are careful to preserve this concept. The facts of twentieth century political life, however, have forced them to admit a policy making function, or alternately classify themselves as merely passive instruments in the hands of their respective ministers. This means that they lay themselves open to charges of usurpation of power in the first instance, or destroy the attraction of the public service for really able men in the second. The need for a frank and honest re-appraisal of the twentieth century state by political

⁸ Mitchell Sharp, Reflections of a Former Civil Servant, Notes for talk, Nov. 14/58, reproduced by the Civil Service Commission, Ottawa, p. 6.

theorists has become urgent. Freedom was never defended or preserved by maintaining an irrational attitude towards facts, in the hope that, somehow, refusal to openly admit a situation will prevent its consequences from occurring. If a true statement of facts will topple the whole theoretical fabric of parliamentary democracy, then traditional democracy must have already ceased to exist. Professor J.E. Hodgetts makes reference to the growing incompatibility between facts and traditional theory brought about by the advent of the positive state:

Increased state activity has, of course, vastly expanded the bureaucracy; (...) As a consequence, the notion, supported still by constitutional doctrine, that one political head can assume direct and immediate charge over the staff of a department numbered in thousands, strains the bounds of reason, and certainly the limits of human endurance. (...) More and more, in the need to explain departmental policies to the public, the civil servant may find it difficult to preserve the ancient tradition of the model majordomo to his minister, the administrative eunuch with neither policies nor politics.⁹

One of the most convincing proofs of the extent to which the administration has come to participate in the making of policy is the manner in which the more powerful pressure groups have sought to enlarge their contacts with administrators, largely through their advocacy of the extension of the use of the advisory board. It is a truism that

⁹ J.E. Hodgetts, "The Civil Service and Policy Formation", Canadian Journal of Economics and Political Science, v.23, n.4., 1957, p.471.

in modern democracies pressure is brought to bear on those points at which power and influence are concentrated.

A. Andras, Assistant Research Director of the Canadian Labour Congress, states the views of organized labour on the advisory board:

There will be, it seems to me, a persistent effort to have advisory committees established. During the last year, the Canadian Labour Congress, for example, has sought to have them on immigration, automation and fair employment practices. Organizations like the Congress are not likely to accept the notion that the government expert is the sole repository of knowledge on his specialty.¹⁰

On the American scene, the situation has been described as follows:

With the growing complexity of government, legislative bodies have had to delegate authority to administrative agencies to make rules and regulations. Administrators become legislators, and pressure groups inevitably direct their activities to the point at which authority to make decisions is lodged.¹¹

While it is true that the American system, by its nature, has placed the executive in a different position to the executive in Canada, it would appear true to say that the difference in this regard between the Canadian and the American administrator is greater in theory than in practice. Generally speaking, the amount of attention paid the administrator by powerful Canadian pressure groups appears to

¹⁰ A.A. Andras, in Proceedings of the Ninth Annual Conference, I.P.A., p. 142.

¹¹ V.O. Key, Jr., Politics Parties and Pressure Groups, Crowell, New York, 1958, 783 pp., p. 154.

confirm their growing importance in the policy making field.

Another indication of the realization, by those whose business it is to promote the interests of their particular groups, of the growing importance of the administrative branch is their keen interest in the matter of appointments to the executive branch of government. A recent example of this was the furor over the refusal of the government to appoint a nominee of the Canadian Labour Congress to the Canadian Labour Relations Board. The general tenor of comment by labour leaders implied the right to consultation prior to such appointments; in fact, in its more insistent form, this right of consultation is almost pre-emptive of the right of appointment. The Canadian Federation of Agriculture has also enjoyed a high degree of success in having those whom it holds in esteem appointed to top level posts in the Federal Department of Agriculture.¹² The situation in the United States is quite similar, and here again the tendency for like conditions to bring about like results, despite the fundamental differences in governmental structure, is apparent. V.O. Key states: "Organized Labor is deeply interested in who is Secretary of Labor; organized business hopes that the Secretary of Commerce is a man acceptable to it".¹³

12 Supra, p.69.

13 Key, op. cit., p. 154.

In view of the foregoing, it would appear reasonable to recognize the policy making potential of the administrator on the level at which most of the important advisory boards function. This being the case, serious doubts arise as to the wisdom of relying on the old classical dividing line between the administration and the politician for assurance. All the evidence points to the fact that to place unbounded faith in the ability of this dividing line as the principal safeguard of responsible government, without examining the changes wrought by circumstances, would be extremely negligent on the part of the political theorist. Speaking on the strains to which this dividing line has been subjected by modern developments, Professor J.E. Hodgetts had this to say:

Paradoxically, while the needs of a permanent career service have called for this dividing line, the preservation of responsible government has required a closer integration of appointed officer and elected politician. One might add that the welfare activities upon which the modern state has been forced to embark have also brought the civil servant into more intimate and direct personal contact with the populace at large. We have sought to resolve our paradox by throwing up a single bridge between the two realms in the form of a responsible minister. That bridge it would appear, is often too fragile to sustain the heavy traffic that now moves across it.¹⁴

One of the factors which tends to make the minister a 'fragile bridge' is the fact that while much of the activity of most departments deals with highly technical

¹⁴ J.E. Hodgetts, "The Civil Service and Policy Formation" in Canadian Journal of Economics and Political Science, Vol. 23, No. 4, pp. 470-471.

matters, the minister is what Dawson calls an 'amateur'. The question is then whether this amateur minister, surrounded by a host of experts in his department and in the pressure groups will have both the will and the ability to assert his pre-eminence and demand that the policy of his department be so formulated as to give first place to the common good. The answer does not lie in appointing an expert minister, for the chances are that he would be a second or third rate expert, placed over men who are supposed to be the best in the field.¹⁵ The reason for this is that a top flight man in any field rarely enters politics. The type of man who can rise to the top in a specialized field is generally too preoccupied with his specialty to be an effective politician. Despite his handicaps, the amateur minister has definite advantages, which have been succinctly outlined by R. McG. Dawson:

The amateur Minister enters this oppressive atmosphere like a fresh breeze from the sea. He possesses few predilections, and those he has are of an entirely different kind from those of his subordinates, a fact that makes him far more useful to his department than if he were simply one more expert among many.... The Minister introduces a different point of view into the department; he poses problems for solution; when future departmental plans are being formulated, he is the one who can gauge the views of the public and can insist that all sides of a question be carefully considered before final action is taken.¹⁶

¹⁵ Dawson, op.cit., p. 230.

¹⁶ Ibid., p. 239.

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It will be noted that all these beneficial activities are things a minister can do, but give no assurance that they will be done.

In the face of the aforementioned facts, to dismiss the enquiry into advisory boards, either on the grounds that the executive makes no policy, or that the minister ensures enforcement of responsibility, would hardly befit a sincere investigation. As the investigation has shown, the use of advisory boards is only one aspect of a much larger problem: the ability of modern legislatures to maintain effective control over a tremendously expanded executive. The situation has been aptly described by V.O. Key, Jr.:

... Representative bodies, the institutional embodiment of democratic ideology, have by the compelling force of events lost both power and prestige. Their role in the initiation of public policy has been diminished by losses to pressure groups and administrative agencies; their authority to decide many issues has, of necessity, been delegated to the administrative services.¹⁷

In relating the advisory board to this trend, the specific problem is to determine the role played by them in terms of this development. At the outset, it must be remembered that the most favourable judgment possible on the relationship of the use of advisory boards to the concept of responsibility is that they do not affect it. This is apparent because the boards here studied include those persons

17 V.O. Key, Jr., op.cit., pp. 761-762.

neither employed by nor elected to government, and thus outside the chain of responsibility upon which the Cabinet system of government is based. Any theoretical justification of the use of advisory boards must rest on their ability to make government more representative.

In carrying out this evaluation of the role of the advisory board in terms of responsibility, a different format from that followed in the chapter on representation must be devised. Since there is, as has been stated, no positive case, the procedure will be to center attention on responsibility, and to study the impact of the advisory boards on those areas in the process of government where the political machinery for the enforcement of responsibility are active. In this process, dangers to the survival of responsibility as it is popularly conceived, whether real or potential, should be noted.

From what has been said, it becomes apparent that the key figure in this chapter must be the cabinet minister. He (or today she) it is that constitutes the sole effective link between the legislative and executive branches of government. Three principal areas are involved: the relationship of the Legislature to the minister, the relationship of the minister to the executive, and the relationship of the executive to the public. In all three, the minister is vital, either in an active or supervisory role.

The dominant position of the minister poses a problem, for while it is the aim of any theoretical treatise to deal in general rules, it must be remembered that in all the cases that can be examined, the situation will depend to no small degree upon the personality and ability of the individual minister. In addition, the relative strength or weakness of those with whom the minister must deal will be something which must be taken into account. The relationship which existed between a man like C.D. Howe and his executive branch was something quite different to that found in many other departments. In stressing this important variable, Harold Laski makes a threefold classification of ministers:

There are those who come to office with a fairly detailed picture in their minds of the policy for which they propose to be responsible. There are those who come to it with no particular direction, but with a desire to make a name for themselves as ministers. There are those, thirdly, who may, without offence, be described as somewhat startled to find themselves in office at all, and mainly intent on living their lives there with a minimum of adventure.¹⁸

In the light of the foregoing, with the power and pre-eminence of the cabinet ministers made clear, must the fate of responsible government be contingent upon the individual situation? Obviously not, for the whole aim of the institutional framework of government is to ensure that the basis principles upon which it is based may survive, despite

¹⁸ Laski, Parliamentary Government in England, Viking Press, New York, 1947, 383 pp., pp. 236-237.

the wide variations in character and ability which will be found in the various departments of government, both as to the ministers and the senior civil servants. In the Cabinet system, one of the reasons that the system is able to survive is that the responsible ministers at the head of executive departments, are at the same time leaders in their political party, which represents the majority of the electorate. In this way, the very party discipline which prevents the government from being lightly dismissed, also serves to ensure that the leaders of government will conduct the affairs of the government in such fashion that they will not alienate the support of the rank and file of their party. Despite the wide personal variations noted, then, it is still both possible and necessary to seek valid general conclusions, if the cabinet form of parliamentary democracy is to have any real basis in political philosophy.

The above discussion of the important role played by individual personality applies with equal force to a consideration of the advisory board. Here, as the preceding study has shown, the absence of any formalized structure has resulted in the greatest possible variety as between boards, in composition, terms of reference, conditions of operation and the uses to which they have been put. Part of the reason for this is their origin as an ad hoc device under the pressure of circumstances, with no attempt made to incorporate

them into the structure of government. The question that must be answered is whether any of the uses of the advisory board represents an actual or potential threat to the ability of the legislative branch of government to exercise ultimate control over the executive.

The first and most vital point at which the concept of responsibility must be considered is in the relationship between the minister and the legislature. Here the whole idea of the supremacy of the legislature over the executive is given effect. Outside the legislature, no device exists whereby the activities of the executive can be questioned and checked. The cabinet minister, as the head of an executive department must be prepared to answer for all that goes on in his department, both to the legislature and to the other members of the cabinet.

In order that the legislature may be able to enforce responsibility, the source of executive decisions must be both determinate and capable of being called to account. If either the minister, or the officials of a particular department are able, by implication, or expressly to shift a part of the burden of responsibility for policy to persons over whom parliament has no effective control, then to this extent, responsibility is impaired. The question to be considered here is the net effect of the use of advisory boards on the control of the legislature over government policy.

The ability of the legislature to play the role assigned to it as the ultimate spokesman for and guardian of the public interest is the cornerstone of responsible government.

Two significant considerations on the role of the legislature arise: the inability of the modern legislature to deal with the problems of government in detail; and the absence of any other agency to play the role assigned to the legislature in the maintenance of representative, responsible government. Unless the control of the legislature is real, rather than theoretical, then the foundations of responsible government have disappeared.

On the first mentioned point, the difficulties of the modern parliament in controlling the growing executive, John Deutsch, former top level civil servant, now in the academic life, had the following to say:

... Parliament itself has recognized the increasingly technical and discretionary character of the activities of government in the growing amount of delegated legislation which has been put on the statute books

Parliament, as a result of these developments, is suffering an ever-deepening sense of frustration While the functions of government have become increasingly technical, complex and all pervasive, Parliament has maintained its ancient ways and glories. Parliament is not a gathering of experts. Its members are, for the most part, representative men and women. Indeed it should not be otherwise in a democratic and free society.¹⁹

¹⁹ J. Deutsch, "Parliament and the Civil Service" Queen's Quarterly, vol. LXIII, No. 4, Winter 1957, pp. 568-569.

Because of the fact that parliament is composed of representative men and women, rather than experts, it is ideally suited to perform one of its principal tasks; to act as a link between the executive, headed by the cabinet, and the public. Under modern conditions, the minister and his senior administrative officials have little or no direct contact with the great mass of citizens. The views which are presented to them in the course of their daily work are, for the most part, those of experts and the more highly influential organized groups. While the picture of the cabinet minister whose door is always open is an appealing one, it has little basis in fact. The work of a conscientious minister may leave him little time for family and intimate friends.

One of the major methods whereby the legislature carries out the function of bringing the public interest and viewpoint constantly before the cabinet is by discussion and criticism of the various components of government policy. This process provides a broadly representative reaction and criticism of the policy of the government, to the end that it may be made more truly representative of the wishes of the public, and also, that by following the day to day discussions in the legislature, the public may be kept informed as to the affairs of government. It will be noted that part of this function, the provision of a sounding board for

government policy is also a function of the advisory board, with a vital difference: the criticism and reaction provided by the advisory board is not that of the general public, but for the most part, of particular interests.

Because of the fact that the advisory board, if it is set up to perform a representative function rather than to provide expert knowledge, is carrying out in miniature, as it were, a function of the legislature, a significant danger arises. The executive may be tempted to avoid, if possible, any protracted explanation or defence of policy in the legislature. The following comment by K.C. Wheare on this problem makes the point at issue clear:

... An illustration of the way in which this works is sometimes found when, in the House of Commons, members attempt to criticize some part of the government's policy. They are assured by the Minister at once that what is being done has been done only after this or that advisory committee was consulted, that the policy has the support of all the interests concerned, and that it has been very carefully worked out with them. It is then indicated, perhaps explicitly, that as the scheme has been agreed to by all sides, it must not be touched at all otherwise it will fall to pieces and all the negotiations will have to start over again.²⁰

What the above situation really implies is that the legislature is being told indirectly that its work has already been carried out by another, and by implication, more highly qualified body, and that therefore, no public benefit

20 K.C. Wheare, Government by Committee, Oxford University Press, London, 1955, 264 pp., p. 66.

can be expected from an insistence on the part of the legislature that implementation of policy be delayed until the members give full consideration to the proposals of the executive. If the legislature leaves to any other body the task of the examination and criticism of policy, then it has abdicated its principal function. Only the legislature is designed to represent the public and to bring their interest to the attention of government. No matter how carefully an advisory body is chosen from the viewpoint of representation, it is an appointed and not an elected body, and has no control over the government, which in fact appoints it. The essence of responsible government is the necessity for the executive to submit its proposals to the elected representatives of the people for approval. If, in actual practice, the principal voice of the public interest is an appointed body, then government has lost its democratic character and reverted to the representative government of one hundred years ago.

Because of the trend to more technical activities on the part of modern governments, it may be protested that the private member of the legislature is no longer qualified to pass judgment or offer intelligent criticism on policy. If this is, in fact, the case, then government has become an aristocracy of expertise, and democracy as popularly conceived no longer exists. The true value of a legislature made up of elected representatives of the people was never based

on their special knowledge of particular fields, but upon their ability to consider policy in terms of its impact upon those who have entrusted to them the safeguarding of the general welfare; the body of voting citizens as a whole. Any attempt to stampede or circumvent the legislature in the name of efficiency or superior knowledge is a fundamental denial of the responsibility of the government to the governed. Sir Ivor Jennings sums up the attitude of the adherents of responsible government with a quotation from the Report of the Joint Select Committee on Indian Constitutional Reform: "Good government is not an acceptable substitute for self-government".²¹

With reference to the danger noted, such developments must be guarded against by government. Even greater scrutiny would appear to be called for in the case of those boards which are set up as a response to pressure on the part of some powerful group. It would be idealistic in the extreme to expect that such boards, whose sponsors have pressed for them as a means of bringing their particular viewpoint into the consideration of policy, would abandon this purpose and place primary emphasis on the public interest. The express purpose of the pressure or interest group is to exert an influence on

²¹ Report of the Joint Select Committee on Indian Constitutional Reform (1934), vol. 1, part 1, p.5; as quoted in Jennings, op.cit., p. 19.

policy without having to take responsibility for it. Helen Jones sets out this point with reference to the Canadian Federation of Agriculture:

Although there has been close and constant relationship between the C.F.A. and the officials of the Department of Agriculture, the C.F.A. officers have been most reluctant to participate in Departmental decisions for which they might be held responsible.²²

Advisory boards have become a part of the apparatus whereby interest groups attempt to exert influence on policy while avoiding responsibility. A. Andras, Assistant Research Director of the Canadian Labour Congress makes a frank admission of this fact: "... we will bargain in committee as well as anywhere else and we find it can be fairly effective."²³ When meetings of such advisory boards or committees are held in secret, the opportunity to go all out in exerting pressure while at the same time avoiding all responsibility is afforded.

While considering the relationship of the use of the advisory board to the control of the legislature over the executive, attention must be given to the position of the opposition in the cabinet system of government, and the difficulties with which it is faced in modern legislatures. The principal scrutiny of government policy always comes from the

²² H.I. Jones, op.cit., p. 121.

²³ Proceedings, Ninth Annual Conference, I.P.A., 1957 pp. 158-159.

opposition, for the operation of the party system precludes any serious attack on the policy of the government from within its own ranks in the House. It is equally true that a government with a clear majority can implement the policy of the Cabinet. Through the ability of the opposition to attack the policy of the government, to ask pertinent questions and expose weakness, the public is enabled to become informed on the conduct of affairs by the government. If however this policy is prepared by the executive and submitted to the House with the attitude that it has already been given all the necessary scrutiny, and the explanation of policy is given to the advisory board rather than to the legislature, the opposition can hardly ascertain the facts necessary to do its job properly.

Unless a cabinet minister has a deep regard for the legislature, and is prepared to pay more than lip service to the recognition of the vital role it plays, then the words of K.C. Wheare may become a prophecy of the gradual decline of responsible government. Speaking of the tendency to belittle the value of the criticism of policy offered in the House he says:

It can mean that the House of Commons will find itself reduced to a body which must apply a rubber stamp to policy or a decision which has been produced by the officials, the experts, and the interested parties ... And it is often a danger that in these discussions, while the interests of the parties involved are represented, no one can be there to represent the public interest.²⁴

Another manner in which the use of the advisory board may interfere with the effective functioning of the opposition is when the government, fearful of certain critics among the experts in a particular field, silences them to all intents and purposes by placing them on a committee.

K.C. Wheare makes note of the possible implications of such a move: "The drawing of the teeth of the experts may lead to the drawing of the teeth of Parliament and the public."²⁵

Passing from a consideration of the relationship of the minister and the executive to the legislature, the next aspect of the use of the advisory board to be investigated is its influence on the relationship between the cabinet minister and the permanent civil servants in his department. Because of the fact that, under normal circumstances, the minister is the only member of the executive with whom the legislature has contact, the whole question of legislative-executive relationship hinges on the relationship of the minister to his department.

²⁴ K.C. Wheare, op.cit., p. 66.

²⁵ K.C. Wheare, op.cit., p. 66.

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As has been indicated, a great deal will depend on the relative character and abilities of the minister and his senior civil servants. The major concern here, however, is the role played by the advisory board in this relationship between the minister and the administrator.

One of the dangers of the use of the advisory board, insofar as it pertains to the situation referred to is that the administrator may attempt to use the approval of an advisory board as a means of intimating to the minister that policy put forward to the minister for his approval has been given, not only the approval of the experts in the department, but also public approval via the advisory board. An example of how this works is spelled out in amazingly frank detail by G.W. Stead, member of the Treasury Board:

(...) When the bureaucrats in a department dream up some scheme for expanding their empire they use the advisory committee as a means of obtaining popular support. This tends, in one instance I know of, on the one hand rather to commit the department, if not the government, and on the other to produce for the particular plan a pressure group that would not be there otherwise. (...) Where this occurs it involves an evasion of responsibility by the minister and the deputy minister of the department.²⁶

What is really involved here is whether or not the minister has the will and ability to make his own assessment of the facts, and evaluate any policy in terms of the public interest and over all Federal policy. One of the areas where

26 Proceedings, Ninth Annual Conference, I.P.A., 1957 p. 156. (Underlining added)

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the danger in this regard would be greatest is in departments where the minister is faced with a strong administration, and this administration is reinforced by an advisory committee set up in response to pressure from a powerful interest group and of a predominantly homogeneous composition. If the conditions of responsible government are to be maintained the minister must demand that the administration recommend to him only policies that may stand on their own merits, and refuse to allow any official to take cover behind the prestige of an advisory board.

Having said this, it must be said that any legitimate assistance that the use of the advisory board may afford the executive is to be welcomed, but the board must be restricted to advice only. No senior official of first rank can allow himself to become a funnel, whereby the ideas of a pressure group are injected into government policy via the advisory board. If, as was the case with the principal advisory board in the Department of Agriculture, the meetings are held in secret, then the public is unable to have any idea of the actual source of the policy of the government. Indeed, in such cases, the legislature is little better off. If the minister and the legislature accept the proposals of the administration on the assumption that they are unable to challenge either the experts in the administration or in the advisory committee, then some of the fundamental assumptions

of present day theory on responsible government will be hard to vindicate.

A further consideration, which may aggravate the situation referred to occurs in those instances where senior civil servants in a particular department are, in fact, indebted to the interest group with which they deal for their appointment. The great interest shown by pressure groups in the appointment of officials with whom they will be dealing indicates that this problem is far from academic.²⁷ It must call for far more than normal objectivity if an administrator is to sit down around a table with those who have been instrumental in obtaining his appointment, and reject their advice. In addition to this, it seems hardly likely that an interest group would exert itself to obtain the appointment of a man who did not share some bias in favor of their particular interest.

The trend to the creation of what might be called clientele departments has proceeded more rapidly in the United States, but it must also be kept in mind in a study of the Canadian scene. V.O. Key, Jr., notes the American situation:

27 Supra, p. 69.

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Interest groups tend to share and advocate a similar fundamental philosophy about administrative role and organization. The doctrine recurs that the role of administrative agencies should be to function as advocates within the government of the interests within society with which they are concerned: the Department of Commerce should look out for business; Agriculture for the farmer; the Bureau of Wildlife Management for the sportsman.²⁸

J.E. Hodgetts, Canadian political scientist, sees a danger that the same situation is liable to develop in Canada as is apparent from the following remarks made in a discussion of the subject of Advisory Committees at the Ninth Annual Conference of the Institute of Public Administration of Canada concerning the Federal Department of Agriculture:

I think what is concerning some of us is Mr. Trueman's remarks which might be described as 'privileged access' which one group does have to a department. I am wondering whether the department is rather peculiar in that it can make the assumption rather readily that it is dealing with a homogeneous group; it is servicing a clientele, and perhaps the Department of Labour might make the same assumption.²⁹

Any tendency to a development of this clientele attitude in the cabinet system must be viewed with some misgivings, for it would tend to leave the minister, who is not an expert, stranded in the midst of experts both from within and without his department, while he attempts to build a policy in harmony with the over all objectives of the government. It cannot be forgotten that in the last analysis it is

²⁸ Key, op.cit., p. 163.

²⁹ Proceedings of the Ninth Annual Conference, I.P.A. 1957, p. 163.

the minister who must take full responsibility, both in the House and before the public for the activities and policies of his department.

The final aspect of the use of the advisory board to be dealt with is the effect of its use on the relationship between the executive and the public. At first glance, this relationship would appear to call for little or no examination, for theoretically speaking, the executive apart from the Minister merely carries out the will of the legislature. This, however, is a misleading oversimplification when applied to the positive state of today. Devolution of the power to apply the general rule in particular cases, and even to make the rules and regulations which are designed to accomplish the fulfillment of the law has placed a great deal of discretionary power in the hands of the executive. The failure of the public to comprehend the full implications of this development may be attributed in part to the fact that at the level on which the individual citizen is brought into contact with the administrator, the situation is little changed over the years. The lower levels of the civil service are indeed carrying out orders, much the same as they did under the negative state, and the question of the process whereby the decisions they enforce are made is likely to be of little or no concern to them.

Under a strict interpretation of existing theory, the public, under a cabinet system of government, have no direct

access to the civil service from the point of view of influence, and their recourse is to reach the minister through whatever channels, administrative or political, lie open to them. Any influence upon the civil servant is thus indirect, and comes only through the minister. Enough has been said thus far to indicate that this theoretical picture is far from being an accurate representation of the facts in this present day. The growth of demands for the extension of state activity show no signs of decreasing, and this will lead in turn to more and more formal and informal contacts between the executive and the public at those points where the new activities of the government bring them into contact with new segments of the public. In the past, the advisory board has played an important role in these contacts, and proponents of the board, both in the administration and in the public forecast an even greater use of this device.

In examining the use of the advisory board, one thing which stands out is the dual nature of the demand for and use of the board. Malcolm Taylor put the situation succinctly in the following remarks made at the Ninth Annual Conference of the Institute of Public Administration, in a discussion on advisory boards:

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(...) The administrator looks upon the advisory group for one purpose, but the members of the committee, the interest groups, look upon membership for another. The administrator wants advice. But they want to make the decisions.³⁰

In addition to desiring advice, the administration may wish to contain pressure or stifle criticism, or it may desire to utilize a board made up of a fairly wide selection of influential persons to enlist public support. In this latter instance, while the practice appears sound, it is hard to imagine anyone with enough influence to be really useful allowing himself to be used in this connection knowingly, unless there was promise of some advantage thereby.

Dr. Malcolm Taylor, in the discussion quoted above, made it clear that medical, dental and hospital groups were reluctant to send representatives to sit on the committee which dealt with the national health plan unless they were given assurance that their advice would be heeded. It would appear then that the final outcome of the use of an advisory board would depend to some extent on the relative strength and ability of the administration as opposed to the representative of the interest groups.

Relating the use of the advisory board to the concept of responsibility, and more particularly to the manner in which the use of the board affects the relationship of the

³⁰ Proceedings of the Ninth Annual Conference, I.P.A. 1957, p. 157.

executive to the public, it is important to note that under a democratic system, the question of whether one is publicly considered to be responsible for a policy is almost as important as whether one has the responsibility in fact. Final accountability and the ability to impose penalties lies with the public, and if the public can be deceived into placing responsibility incorrectly, then to this extent the proper functioning of the political system is thwarted, particularly if the responsibility is imputed to an individual or group over whom the public has no control. Pilate knew his responsibilities and the fact that they were inalienable, yet he was anxious to wash his hands publicly. Without citing further examples, it seems unlikely that this was the last time that a public official attempted to pass the burden of responsibility for a thorny decision to the public.

From this point of view, one danger in the use of the advisory board is that the administrator may attempt to use it as a buffer, and avoid the appearance of responsibility. This is most likely to occur in those cases where the administration does not really wish to be advised, but rather desires to set up a board composed of prominent and influential persons who will carry with them large segments of the public and thus enlist support for a particular line of policy. This practice has much in common with the practice in the business world of using a list of reputable directors to

inspire public confidence in a corporation. While the practice may have merit from the standpoint of the administration, it is highly unlikely that persons of enough stature to be of value in this regard would consent to being used for this purpose for any length of time without achieving some influence for themselves or the groups they represent.

Another potential danger in the use of the advisory board has been pointed out by R.B. Farrell:

In external administrative relations there is an inclination for the administrator to use his advisory board as a shield against criticism. When his action is censured, he may use as his defence the statement that he consulted his committee beforehand and secured the approval of its members. This may result in criticism of the advisory committee.³¹

Such a development would certainly tend to bring about a strained situation between the advisory board and the executive. This would rapidly destroy the value of the advisory board, for no board will continue to give effective service to the government if the reward is to consist in being made the 'goat' for unpopular policy. There is also the very strong possibility that the parent groups will disown their representatives if the net effect of being accorded representation is unfavorable publicity.

Turning the coin over, there is a danger to be found on the other side. Contact with the more highly organized and

31 Farrell, op.cit., p. 149, (Italics added).

more vocal of the interest groups may tend to make the administration forget that the voice of the advisory board is not necessarily the voice of the public. A common characteristic of interest groups is that they tend to identify their own interest with the public interest. While this may be done in all sincerity, it is something which must be guarded against. An astonishingly frank revelation of this attitude is seen in the following remarks made by two outstanding interest group spokesmen. Dealing with the value of advisory committees, H.H. Hannam, Executive Director of the Canadian Federation of Agriculture, had the following to say:

(...) Governments will naturally receive the views and opinions of various interest groups with widely different and sometimes conflicting economic interests (...) In such situations some interest groups can be of service to governments by helping them to interpret public opinion correctly.³²

In a similar discussion at Kingston in 1957, A. Andras, a member of the staff of the Canadian Labour Congress, expressed an almost identical viewpoint on behalf of organized labour:

³² Hannam, "The Interest Group and Its Activities", Proceedings, Fifth Annual Conference, I.P.A., 1953, p. 174. (Italics added).

Here you have, then, the point of view of the outsider looking in, the outsider being an organization, to wit, a special interest group sometimes numbering its members in the hundreds of thousands. Item: a concern about its members' well-being; a determination that their legitimate rights should be protected; a feeling that it knows what is in the best interests not only of its members but the country generally;
(...)³³

Given such an attitude on the part of interest groups the administrator must be wary that such well-presented cases do not obliterate the concept of the public interest. A group which actually feels that it is in some way best fitted to tell government what the public needs is not likely to draw a sharp line between the giving of advice and the attempt to shape policy. While there is undoubtedly a genuine need for regular contact between the administrator on the one hand, and those groups most intimately affected by the policies he is implementing on the other, the administrator must never mistake the particular segment of the public with which he is dealing for the public as a whole.

³³ Andras, "Advisory Committees in Administration", in Proceedings of the Ninth Annual Conference, I.P.A., p. 141, (Italics added).

CHAPTER VII

ADVISORY BOARDS, A CRITICAL EVALUATION

The aim of the present chapter will be to draw together the results of the investigation thus far, and attempt to reach certain general conclusions on the use of the advisory board in a system of representative, responsible government. It will be necessary to examine the practical benefits which have resulted from the use of advisory boards, and in the light of any disadvantages, to draw up a balance sheet.

To this point the advantages of the advisory board which do not affect responsibility or representation directly have not been pertinent to the investigation. In the present chapter they will be taken into account, but even here, they are of concern only insofar as they provide the justification for the continued use of advisory boards, despite real and potential dangers to the concepts of representation and responsibility. To speak of such dangers is not to anticipate conclusions, for while no conclusions have as yet been drawn, the facts examined thus far would certainly rule out any endorsement without reservations of the use of the advisory board.

At the outset, it must be stated that although the object in the present chapter is to formulate general

conclusions, these cannot be as broad and definite as might be desired because of the constant need to qualify such general statements. This occurs because of a fact already noted: the almost complete lack of uniformity as between the various boards examined in composition, method of appointment, function or operating procedure.

In the attempt to reach a verdict, the beneficial results of the use of the advisory board will be considered in relation to the dangers, real or potential, which they entail. This done, the next step will be to seek a method whereby the benefits of the advisory board may be retained while its inconsistencies with established theory may be eliminated or at least minimized. To achieve this, there must be a set of rules or conditions established governing the use of advisory boards. These will constitute an irreducible minimum with which any use of an advisory board must comply if it is to conform to the theory behind a cabinet system of representative, responsible institutions.

One of the principal points which emerges from the preceding study is the ad hoc nature of the advisory board. While the theoretical case for the use of the board has been made in a convincing manner, an examination of the facts reveals that the boards themselves were established before any serious attempt was made to reconcile them with the theoretical framework within which they were operating.

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This must be kept in mind when considering the validity of the theoretical justification for the use of such boards. It may be true that the advisory board is democracy's answer to the corporate state, but no one in possession of the facts would seriously contend that this motive was uppermost in the minds of the originators of the boards or those who later made the most extensive use of them.

Factually, as has been seen, advisory boards originated to fill a need created when the laissez faire state was thrust into fields of activity with which it had no previous experience, and for which it had not prepared itself in advance. The success with which advisory boards were able to fill this need led to the extension of their use to other fields and their adaptation to many purposes.

In similar fashion, while those who were called upon by government to participate in the work of advising the executive may have responded in a spirit of disinterested good citizenship, they were not long in discovering the practical advantages to be derived therefrom. Having come to this realization, they too have pressed for the expansion of the scope of the advisory board and the extension of its use to further areas of governmental activity. Under these circumstances, it does not seem unreasonable to conclude that while there may well be a sound theoretical case for the use of the advisory board, the real driving force behind the growth of

its use has been practical rather than theoretical. There is no intention of suggesting that practical considerations carry no weight, but the purpose here is to pass judgment from the theoretical point of view.

The first type to be dealt with is the board which is composed of experts. The formation of these boards is motivated by the need for government to obtain information on specialized subjects. The developments which have led to this need have been examined above.¹

Broadly speaking, this type of board presents little or no problem. It has nothing to do with representation, for the objective is to enlist the aid of persons who possess the most complete knowledge on a particular topic. Some of these boards are set up to deal with a particular problem, and having dealt with it are disbanded; others are established on a continuing basis. Properly used, the function of the expert board is to present fact, not opinion, and this leaves the decision making function outside the scope of the board.

Such boards are not completely without the danger of misuse, however, as was seen in the previous chapter.² For this reason, care must be taken to ensure that any attempt to impute responsibility for executive decisions to such a board

1 Supra, p. 93.

2 Supra, pp. 135 and 137.

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is not tolerated. Here, Parliament is the body which must exercise vigilance.

The expert board, in the light of all the facts, would appear to be almost indispensable under modern conditions, for no government could undertake to have in its employ all the experts to meet its day to day requirements in so dynamic a society as exists today. Among the factors which lead to a lack of concern over the use of such boards are the fact that the initiative for their formation lies with the government; their membership is decided upon a basis of special qualifications and their contribution is one of fact.

Turning to consider some of the other types of advisory board, the problem becomes a great deal more complex. The positive state has not only become involved in tasks which call for scientifically sound solutions, it has moved, by popular demand, into almost every sphere of activity within society. In those areas of government activity where the facts are not indisputably clear, and considerable disagreement arises over the relative merits of different courses of action, the need for administrative consultation with the public is often just as great as in technical matters, but the problem of how to achieve this consultation is by no means so easily solved.

A fundamental feature of government in a democracy is the necessity for a large measure of public co-operation

in the enforcement of the rules and regulations which give effect to policy. An outstanding instance of the result when this public acceptance is lacking, was the absolute failure of the Eighteenth Amendment to the United States Constitution, which gave the Federal Government the right to prohibit the manufacture and sale of beverages containing more than one-half of one percent alcohol. The obvious intention of the bill was to eliminate the social evils attendant on drinking, but the end result was the fostering of a thriving illicit trade and the creation of a nation wide criminal network. Unless a government can count on a willingness on the part of the great majority of citizens to co-operate, even when they may not be at all enthusiastic, the alternative is the police state and the end of free institutions.

The type of advisory board used to fill this need attempts to provide a sounding board for policy. Government often desires a certain amount of prior consultation with those who will be most intimately affected by new legislation. If this consultation can be brought about while the legislation is still in the draft stage, there is an opportunity to avoid mistakes which might prejudice the successful operation of policy. Consultation of this sort is especially effective when government is embarking upon some new activity. During the Second War, when the tasks of the government took it into almost every aspect of the economic life of the nation, this

type of board was used often.³ A more recent example of the use of this type of board on both the Federal and Provincial levels is seen in the inauguration of a National Health Insurance Plan. The extent of such a plan made it clear to those charged with working out its detailed operation that they could not hope to succeed unless there was a widespread prior assurance from those whose co-operation was vital, that the proposed program would receive support. A health plan which was opposed by medical and hospital personnel generally, would be doomed to failure.

Considering first the situation in which a government department has the greater part of its direct contact with a single organized interest, the problem of soliciting the views of this interest scarcely exists. All well organized interests maintain constant contact with government. The question of the wisdom of setting up a single interest board on a continuing basis, however, is open to grave question from many sides. It cannot be denied that under the pressure of World War II, when the more powerful of these boards were set up, the need of the government to set them up on this pattern was genuine. Driven into minute regulation of many sectors of the economy, government had recourse to advisory boards in order to enlist the knowledge and co-operation of

³ Supra, pp. 25 and 26.

labour, the farmer, business and other groups in placing the various parts of the economy on a wartime footing.⁴ It is not surprising that, once invited to participate in the construction of policy, the more powerful interests were loathe to revert to the status of passive spectators. In those departments where a considerable degree of success resulted from the co-operation of the administration and its major clients, so to speak, the administrators were not unwilling to continue the relationship. The case study of the Department of Agriculture revealed the extent to which the government and the governed could become related.

One of the principal dangers here lies in the fact that although the principal, direct dealings of a department like the Department of Agriculture are with the farmer, the success or failure of policy has a direct impact on the general public. R.B. Farrell outlines the problem:

It may be unwise to bring the representatives of a given interest together on a one-interest advisory committee. (...) it may happen that their combination on an advisory committee will give them such massive power that they will offer a threat to the Department or regulatory agency concerned.⁵

Although single interest advisory boards, established to fill a genuine need in an emergency, may be difficult to dispense with when the emergency has passed, the drastic reduction of

⁴ Supra, pp. 25 and 26.

⁵ Farrell, op.cit., p. 145.

the National Agricultural Advisory Committee in 1958 is an instance of a very powerful committee being changed.⁶

While the single interest boards have undoubtedly been of considerable practical value, particularly in emergency conditions, the weight of evidence would seem to indicate that they are open to great danger of abuse, and the use of this type of board outside emergency conditions can hardly be recommended on theoretical grounds. In those cases where the practical difficulties in the way of abolishing a well established single interest board are considerable, the prudent course would be to ensure that adequate provision is made to guard against any potential abuse of privilege or power by the interest group concerned. This is said without any inference of deliberate attempts by an interest group to place self interest above the common good, but simply in recognition of the fact that such abuses have the same net effect on government regardless of the intentions of those who bring them about. The good intentions of the prohibitionists did not mitigate the very real evils which resulted from their ability to impress their view upon the government of the United States.

Moving from the case of the single interest type of consultation, the number of affected interests involved in

⁶ Supra, p. 72.

the formation and administration of a particular policy may be very large, and their viewpoints diversified; or they may be of a sort which can be polarized around two divergent positions. The problem of government consultation is more complex here, and a number of solutions have been offered for both situations.

When the government is concerned with public opinion on a policy which cuts across a broad segment of the population, the establishment of machinery whereby effective consultation may be achieved, often proves very difficult. In cases of this nature, those forming an advisory board are faced with a dilemma; a board large enough to embrace many divergent views will be limited in effect by its size; limitation of the size of the board, on the other hand may do violence to the representative principle and arouse suspicion and resentment on the part of those not consulted.

In spite of the difficulties involved in the consultation of widely diversified groups, there are times when this may be essential. In such cases, the value of the advisory board will depend upon several factors which must be taken into account both in setting up the board and in its actual method of operation. The goal of such consultation on the part of government should be the acquisition of as much prior information as possible, so that the policy which is subsequently drafted will have the greatest possible chance

of success. Where a clear idea of this objective has been retained, and the advisory board has been constructed and used accordingly, the difficulties have not proved insuperable, and while this type of consultation is admittedly hard to achieve, it seems to come closest to fulfilling the requirements for proper use in democratic society.

The first requisite is that all the affected interests be given the opportunity to be represented. In the case of policy which affects different groups in opposite ways, this will lead to the probability of disagreement; however, the presence of other groups will tend to moderate this. Another method of coping with this difficulty will be outlined below. In according representation to groups, care must be taken to ensure that they are truly able to speak for the majority of that sector of the community which they undertake to represent.⁷ It goes without saying that the public interest must be adequately safeguarded. The assumption that the public interest will somehow emerge from the interplay of the various group pressures can be as false in respect to groups as it has proved by experience to be in the case of individuals. On this point, David Corbett provides some excellent comment:

⁷ Supra, p. 108.

The public interest is not just the majority interest. Nor is it the combination of the interests of the dominant groups. (...) the public interest is for the preservation of the society, and for the realization of the values which its members hold in common (...)

From the public interest defined in this way, the interests of groups, even of dominant groups may diverge.

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The public itself is often unconscious of its common interests and unable to articulate them. It is natural for state officials to satisfy a clamorous group interest when the injured public interest fails to express itself.⁸

In the instance of a board of this type, the protection of the public interest must be achieved by making the board as fully representative as possible and by a consciousness on the part of the government and the administration that they must be vigilant in this regard.

With an advisory board set up according to these principles, the next problem is to ensure proper use of the board. An example of such a board which was used to excellent effect may be seen in the consultation carried out in Nova Scotia prior to the institution of the present Hospital Insurance Plan. Because it appears to have solved most of the difficulties in this type of consultation, a brief outline of the procedure followed will be given here from which some general principles will be extracted.

⁸ Corbett, op. cit., p. 188.

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The first step by the government was the appointment of a Hospital Services Planning Commission responsible for the preparation and presentation to the minister of a draft plan for the implementation of hospital insurance. This Commission was empowered to set up an advisory committee. The following excerpts, taken from the report of the Commission, are an excellent outline of the manner in which an advisory board may be utilized while preserving the concepts of representation and responsibility:

The first meeting of the Advisory Committee was held in the Legislative Chamber, Halifax, on October 18. At this initial meeting, the members of the Commission and Advisory Committee went over the details of the Federal proposals and the Hospital Insurance and Diagnostic Services Act. (...)

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It is hardly necessary to say that the Advisory Committee, which not only represented the major pertinent groups in the Province, but also had among its members people of outstanding training and experience, was of the utmost help to the Commission.

The Advisory Committee was not asked to make recommendations as a body, and no vote was taken on any question discussed by this group. Instead, members presented individual opinions, reflecting in some cases the policies and direction of the groups represented, and in other cases based on their own informed judgment of the matters. (...) Although all opinions expressed were given careful consideration by the Commission, not all could be accepted.⁹

The extent to which the Advisory Committee was representative of the major groups involved may be gathered from the following list of the organizations represented:

⁹ Report of the Hospital Services Planning Commission Nova Scotia, 1958, xvii - 102 pp., p. ix.

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Maritime Hospital Association
 Nova Scotia Federation of Agriculture
 Women's Institutes of Nova Scotia
 Registered Nurses' Association of Nova Scotia
 Nova Scotia Federation of Labour
 Department of Public Health
 Union of Nova Scotia Municipalities
 United Mine Workers of America, District 26
 Faculty of Medicine, Dalhousie University
 Medical Society of Nova Scotia
 Department of the Attorney General¹⁰

In the above example, practical methods for avoiding many of the pitfalls of the multiple interest advisory board are seen. A fact worthy of note is the manner in which the Commission takes full responsibility for the final form of the proposed plan, while at the same time it acknowledges the contribution of the Advisory Committee.

One of the most vexing problems in the use of a multiple interest type of board is the difficulty in having such a group arrive at meaningful conclusions. This was avoided by the simple expedient of restricting the Advisory Committee to a presentation of the various views of the individuals and groups, while the evaluation of these views and the formulation of policy recommendations was left to the Commission. In this way the function of the group was truly of an advisory nature, and there could be no question of an attempt to usurp the function of those responsible for this task. The remarks of Dr. Malcolm Taylor regarding his

¹⁰ Ibid

experience with a similar body in Saskatchewan indicate that a more widespread use of this method would be profitable.

"As I sat in the committee meetings, I found that one of the great dangers was to prevent this advisory committee taking a position, an official position as a quasi-government agency."¹¹

A further point of interest lies in the fact that in its report to the minister, the only continuing form of advisory body recommended was "a technical advisory committee, which would be qualified to give expert advice to the Commission on matters of a technical nature."¹² This appears to substantiate the observation of R.B. Farrell noted above in connection with the Advisory Committee on Reconstruction, which was a similar large body; namely, that one of the reasons for its great success was that it was given a definite task to do, did this and was disbanded.¹³ This has the obvious virtue of preventing any such group from becoming something entirely different from what was originally intended.

¹¹ Proceedings, Ninth Annual Conference, I.P.A., 1957, p. 159.

¹² Report of the Hospital Services Planning Commission, Nova Scotia, 1958, p. 67.

¹³ Supra, pp. 32-33.

In the case where the principal affected interests may be broadly grouped into two opposing positions, a different sort of problem confronts a government seeking advice. If the divergence of views on the proper direction of policy is great, deadlock is likely to result. This will place the government in the position of having to favor one group or disregard both, in which case, the primary purpose for the setting up of the board will be thwarted. In such instances, the best solution has been found to be the addition of enough members without a direct personal interest in the field of policy to mitigate the differences. The success of this type of plan is directly dependent upon the qualifications of this neutral group, and therefore they should be carefully chosen so as to serve the intended purpose.¹⁴

Another method which has been resorted to in meeting this problem of strong intransigent interests has been separate consultation. This amounts to the setting up of single interest boards and as such is of doubtful value, particularly when there is no unity of interest in the body of those for whom the policy in question has the most direct consequences.

Thus far in this chapter, consideration has been given to those instances where there is a genuine desire on the part of government for advice. The next situation to be examined

¹⁴ Cf. Supra, p. 106.

is the case where the administration desires to set up an advisory board, not for the purpose of obtaining advice, but rather to recruit a group of influential supporters for the work of the department. As has been indicated,¹⁵ the government can hardly expect a competent group to act as a rubber stamp, and though it may not wish to obtain advice, it will undoubtedly get it. In this case, a refusal to pay any heed to the opinions of the board would quickly bring about conditions the opposite to those which were desired. This situation occurred in the early days of the Department of Agriculture in connection with its regulations on the grading of beef. The culmination came in 1928 when a committee composed of producers, packers and traders leveled an accusation that "the department was completely ignoring its criticisms of regulations and was using it only as a tool for its own decisions."¹⁶ The conclusion here would seem to be that the probability of real benefits from this type of committee does not warrant the risk involved, for when a venture of this type backfires, the destruction of mutual good faith leaves the administration in a very awkward position, and good relations are not quickly restored.

15 Supra, p. 96.

16 Jewett, op. cit., p. 67.

Another argument which has been advanced by the advocates of the use of advisory boards is that they are a good means of enabling the administrator to 'contain' pressure, in those instances where strong pressure groups are seeking to influence the government. Mr. H.L. Trueman, a top level administrator, enunciated this view:

(...) It seems to me that in the Canadian scene there is a good deal less of newspaper pressure from lobby groups than there is in the American scene. I am wondering whether part of that is owing to the fact that in these advisory groups we contain the lobbying elements. (...) we avoid, I think, in Canada, a good deal of the building up of public pressure for things that cannot be done within government policy (...).¹⁷

While there is no doubt some validity to this claim, closer examination of the facts gives the impression that this function of the advisory board may be over-rated. In order that the government be in a position to control pressure, by giving the interests a seat on an advisory board, the assumption must be made that the interest group will abandon the forms of pressure which they had been exerting, and concentrate their efforts to influence policy on the advisory board. Most interest groups, however, do not relinquish any of the other methods whereby they can impress their views upon government because they are successful in obtaining the establishment of an advisory board.

¹⁷ Proceedings, Ninth Annual Conference, I.P.A., 1957, pp. 159-160.

The Canadian Federation of Agriculture, for example, still presents an annual brief to the Cabinet; they also present briefs to various departments, Parliamentary and Senate committees, the Tariff Board, Transport Board, and other official bodies. In addition, local branches of the Federation hold meetings to which the Member of Parliament is invited, when a particular matter is of concern to them.¹⁸ Another important factor which increases influence is the number of contacts that such an organization is able to build up within the administration over a period of years, particularly when they have been instrumental in obtaining the appointment of some of the personnel in the administration.

Before leaving the question of the utility of advisory boards as a means whereby pressure groups can be contained, it is interesting to note the opposite idea advanced by R.B. Farrell: "The establishment of institutional procedures like advisory committees similarly encourages the like-minded to organize that they may not be omitted."¹⁹ On considering both points of view in the light of human nature and the nature of interest groups, there would appear to be a great deal of utopian thinking involved in the idea

¹⁸ H.H. Hannam, "The Interest Group and Its Activities", Proceedings of the Fifth Annual Conference, I.P.A., pp. 171-181.

¹⁹ Farrell, op. cit., p. 8.

that the advisory board would restrict pressure tactics on the part of interest groups, when, as has been seen, the establishment of certain of these boards was the result of pressure.

In addition to those boards set up by the government on its own initiative, consideration must be given to the instances where a board has been established largely as a result of pressure on the part of an interest group. To paraphrase a familiar saying: "Some administrators seek advice, others have it thrust upon them." Note has been taken that in certain instances, constant efforts on the part of well organized interests have resulted in the institution of procedures for consultation between a department of government and those whom it regulates.²⁰ The two outstanding examples here are the Department of Labour and the Department of Agriculture. For the most part, this type of board tends to be a single interest body, and as such it is subject to the possibility of an undue weight being given to the views of the organized group in relation to over-all policy. It would seem reasonable to expect that a group with enough strength to demand and get an advisory role would be strong enough to put their position to good use. Labour, which has had some success in using advisory boards, is pressing for a further

20 Supra, pp. 35 - 37.

extension of their use. Mr. A. Andras, of the Canadian Labour Congress, made this clear when speaking at the Ninth Annual Conference of the Institute of Public Administration of Canada at Kingston. At that time he stated quite frankly that Labour had every intention of seeking to expand the use of advisory boards.²¹

Once an advisory board is set up, the government can hardly ignore it, for this would undoubtedly create an even greater uproar from the interest group in question than that which sparked the formation of the board in the first place. The inference is that the group strong enough to win a quasi-official advisory position has thereby obtained the opportunity to exert an influence on policy. The recurring problem of providing effective safeguards for the public interest is of equal or greater concern in the use of this type of board, which has proved itself an excellent device from the point of view of the organized interests.

Study of the various types of advisory board reveals a paradox. Advisory boards set up to enlist public support rather than to give advice are often depicted as broadening the base of policy formation; those formed in response to pressure on the part of interest groups are referred to as

21 Supra, p. 124.

merely another form of interest group consultation, with no policy function.²² The facts, however, indicate that the opposite is nearer the truth.

In addition to the observations on particular types of advisory board, an evaluation must be made of the method of selecting boards and the problems involved in their operation. These problems are common to most boards, and they have a great deal of bearing on determining the value of a board.

In the construction of an advisory board, two considerations arise: the composition of the board, with particular reference to the interests given place, and the selection of the particular individuals who will serve on the board.

When the proper composition of the advisory board is considered, the practical difficulties in the way of achieving the results promised by the ideal version come into sharp focus. Ideally, an advisory board should contain representation of all the principal affected interests, while maintaining the primacy of the interests of society as a whole. The translation of this theory into a working advisory board appears to be a rather rare occurrence, however.

22 Supra, pp. 65-66.

David Corbett outlined the ideal board:

In each administrative jurisdiction, the representatives of affected interests should be recognized officially, and should be appointed by the government as unpaid members of a committee to advise the administration (...). The committee should be properly balanced. It should include representatives on all sides of controversial questions, and the balance of power should be held by a neutral group within the committee. It is extraordinary how often the simple rule of balance is ignored.²³

In fairness to those who have set up advisory boards, it would appear that the 'simple' rule of balance is far more easily laid down than observed. This ideal situation envisages questions which elicit two major viewpoints opposed to one another, to be balanced by a 'neutral' group. In practice two major obstacles have thwarted this sort of development: the heterogeneity of views on the policies of most departments, and the tendency for government to turn to separate consultation in the case of a department faced with two strongly organized groups with opposing views. It is likely that one of the reasons for this is the difficulty in getting competent persons with no vested interest in the policy considered, to serve as the neutral element. While all are agreed upon the paramount importance of the public interest, most are too busy promoting their own individual ends to devote more than token attention to the public interest apart

²³ Corbett, "The Pressure Group and the Public Interest", Proceedings, Fifth Annual Conference, I.P.A., p. 192.

from times of national crisis. Laski, while recommending a similar sort of composition, makes provision for payment sufficient to compensate for time devoted to the work, without being high enough to be attractive per se.²⁴

In the case of departments dealing with a widely diversified number of groups, a representative advisory board might be expected to contain enough variety of opinion to prevent a split into two camps and consequent deadlock. The theory is that out of the counter pressures of the various groups a workable synthesis will emerge. Practically, however, the problem of bringing the public interest to bear on the functioning of the board is still unsolved. In addition to this, the size of a board which must take widely divergent views into account, restricts its efficiency. The assumption that the public interest will emerge from the pull and tug of a number of special interests is simply the laissez faire of the Classical School of Economics applied in a different sphere, and to groups rather than to individuals. It appears that an advisory board will only produce results consistent with the public interest if those who set it up can include strong representation for this interest.

²⁴ Laski, Grammar of Politics, p. 380.

A CRITICAL EVALUATION

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To date, Canadian experience with advisory boards has been marked by the lack of boards with a well-balanced neutral element. With one or two exceptions, the most influential of the advisory boards have been of the single interest type. Granting the difficulties in getting two groups as divergent as labour and management to sit around the same table, the disinclination to work out acceptable compromises runs counter to one of the fundamental assumptions of democracy. If advisory boards are to realize their full potential it would appear that careful construction of the boards along the lines of the British Working Parties, mentioned above,²⁵ offers a practical means of surmounting the problem of opposing interests.

In addition to determining the interests which are to be represented on a given advisory board, the selection of the particular individuals who will actually sit on the board is a matter of concern to government. Government appointment may be made with or without the nomination of individuals by the interest groups concerned. In some instances, the government has left the selection almost entirely to the interest group.²⁶ Laski favors the nomination by interest groups of their own representatives, but if the interest groups select members who are least likely to consent to compromise, the

²⁵ Supra, pp. 105 and 106.

²⁶ Supra, p. 66.

end result may be conflict. A middle way would be to have the government select representatives from a list submitted by the interest group concerned. This would give the government some leeway, while at the same time, the possibility that a representative might be appointed who would carry no weight with the interest group he represented would be forestalled. In those instances where there is need for neutral representation, the full responsibility must be borne by the government, for there is no group which can pretend to represent the national interest short of parliament itself. Great care must be exercised in choosing such representation, but in spite of the difficulties a well-balanced advisory board offers the greatest potential rewards from the point of view of good government and the protection of the national interest.

One other factor must be taken into account by government in the formation of the advisory board: the persons selected must be bona fide representatives of the group in whose name representation has been accorded, and the group in turn must be truly representative of the class for whom it purports to speak. The onus here falls upon the government to exercise the necessary care in preventing any acquisition of privilege under false pretenses.

In addition to the composition of the board and the method of appointment of members, the use made of the board

is of paramount importance. Many of the problems attendant on the use of advisory boards could be eliminated or minimized if greater care were taken to delimit the field within which the boards should function, and provide some regulation as to frequency of meetings and general working conditions. If these matters are left to work themselves out, advisory boards can become something entirely different to what was intended when they were set up.

In the matter of working conditions, a question which should be taken into account, particularly with the multiple interest type of board, is whether the board should be on a permanent basis. Experience indicates that some of the most effective use of the advisory board has been made when they have been set up in response to a definite need on the part of the administration, given a specific task and then disbanded. Despite interest group claims to the contrary, there hardly seems to be a need for consultation via the advisory board on a continuing basis. Once an advisory board has assisted the government in getting a line of policy established or in solving a particular problem, and the administrator has had the opportunity of hearing the views of the major interests involved, and seeing their problems, it would appear reasonable to expect that the government could carry on from there. Another advantage to this type of use of advisory boards is that each board can be tailored to

a specific task. A permanent board, although it may have been ideal to fill the need at the time it was created, may fail to do so in other circumstances at a later date. In addition, the lack of permanency discourages attempts on the part of interest groups to make the board a tool, and inclines the members to concentrate on the problem in hand.

In the case of single interest boards with an established position, any attempt to dislodge them entirely would undoubtedly meet with strong resistance and create substantial political hazards. While it may indeed be impolitic to discontinue an advisory board in these circumstances, the drastic changes in the Advisory Committee to the Agricultural Price Support Board indicate that it is possible for government to alter in a substantial manner a strongly entrenched board.²⁷

In the examination of Canadian practice to date, the matter of terms of reference for advisory boards seems to lack firm direction. This is rather surprising in view of the fact that the few boards given a well defined task have produced excellent results. In the case of those boards which have not been given this direction from the outset, on the other hand, sufficient evidence exists to indicate the danger that a board may become a means whereby well-organized

²⁷ Supra, p. 72.

groups exert an undue influence on government policy. If the use of advisory boards is to be justified as good governmental practice, then the government must be the principal beneficiary. Unless this is the case, then the board becomes a tool to be used upon government, rather than an instrument in the hands of government to be used for the common good. A board, carefully constructed with a well-defined area of function and procedural framework, can be an asset both to the administration and those with whom it deals.

The task of setting out the terms of reference for the advisory board belongs to parliament and the minister. While it is true that parliament cannot hope to exercise a detailed supervision, it must maintain a great measure of control over the several agencies which carry out policy. The policy potential of the advisory board, coupled with the fact that some of the members are outside the chain of responsibility would indicate that no advisory board should be set up without careful consideration by parliament of the need for such a board. In addition to this, a reasonably precise delimitation of the scope of the board should be provided. While these stipulations may be objected to as confining, the fact remains that interest groups still have and will use all the informal methods of bringing influence to bear on government. Speaking on the experience of Saskatchewan with advisory boards, T.K. Shoyama makes the following comment which bears

out what has been said:

(...) Our provincial experience indicates a wide variety of practice in almost all these aspects. It suggests again the highly individual nature of each committee as a creature of circumstance. It may also suggest that advisory groups are sometimes proposed or established before their role and purpose have been adequately thought out.²⁸

In summary, then, the principal case for the advisory board is built on practical need. The facts would indicate that such a need does exist, but at the same time, the urgency of this need is not so great as some of the more ardent advocates of the advisory board appear to believe. One of the reasons which has been advanced to indicate the need of advisory boards is the ability of government to push its program through the legislature by means of its party controlled majority. Little or nothing is said of the role played by the government caucus.

While the actual procedure in caucus is veiled behind a 'constitutional curtain', occasional chinks have revealed enough to indicate that before members are called upon to support a measure in the House, the Cabinet has had the benefit of a full and frank discussion by a truly representative body. The following description of the function of the government caucus was given in the House by the late

²⁸ T.K. Shoyama, "Advisory Committees in Administration", Proceedings, Ninth Annual Conference, I.P.A., 1957, p. 150.

Mackenzie King:

(...) In a case of a Government caucus it is a bringing together of the majority of members in the House of Commons supporting the Government. It is a means whereby a Government can ascertain through its following what the views and opinions of the public, as represented by the various constituencies, may be. (...) It is a means of discovering the will of the people through their representatives in a manner which cannot be done under the formal procedure which is required in this chamber. (...) It is simply coming into closer consultation with the people's representatives in a manner that permits of the greatest freedom of expression on their part.²⁹

It is hard to conceive of any advisory board which could provide the government of the day with as informed a cross section of experience and opinion as is available in the caucus. The point raised here is not intended as a denial of the need for the advisory board, but it should be kept in mind when assessing the extent of the need for such boards.

Another point which must be considered in evaluating the theoretical case for advisory boards is that this case is built upon the ideal board. In the study of actual boards, the ideal is hard to find. This is not surprising, for it would be remarkable to discover that the unregulated, spontaneous growth of the advisory board which has taken place had in some way brought about an ideal situation.

²⁹ Canadian House of Commons Debates, Feb. 12, 1923, p. 219.

Granting that the need for advisory boards is somewhat less urgent than their more enthusiastic advocates maintain, the practical value of these boards and the need for the positive state of today to seek new methods of coping with the multitude of problems facing it, would appear to justify their continued use. Professor Corbett, speaking at Saskatoon, expressed the approval of advisory boards by political scientists: "(...) the proper medicine for the pressure group has been prescribed by political scientists for more than thirty years. The prescription is Advisory Committees."³⁰ If this is so, still there is need for care, for not every prescription can be a panacea. Like most prescriptions, advisory boards should only be used when prescribed by a competent authority and then only according to directions. Nothing is so likely to destroy the value of the advisory board as a tendency to place more faith in its efficacy than the facts warrant. It must not be forgotten that in the last analysis it is merely a device of government. There is grave danger of losing sight of fundamental principles in a concentration on the development of administrative techniques. This danger was pointed out in the following excerpt, which sums up the attitude which might

³⁰ Corbett, "Pressure Groups in Administration", in Proceedings of the Fifth Annual Conference, I.P.A., p. 191.

well be adopted by political theorists:

(...) It seems to me that among political scientists there is sometimes a rather pathetic faith in the mere machinery of government and in the idea that if we only change the machinery a bit then presumably we ought to be happy for the rest of predictable time.³¹

On the basis of the present study, the continued use of advisory boards would seem to be likely and, in moderation, desirable. This approval, however, is subject to qualifications, chief among which is the assumption by parliament of the responsibility for vigilance, in order that the function of such boards is maintained within proper bounds and their role in the process of government is not allowed to infringe upon areas which would give them powers incompatible with responsible government.

³¹ D.C. Masters, Proceedings, Fifth Annual Conference, I.P.A., p. 203.

CONCLUSIONS

The objective of this study has been to assess, from the viewpoint of political philosophy, the impact that the use of advisory boards, composed wholly or partially of those neither employed by nor elected to government, has on the generally accepted principles of representation and responsibility which underlie the Canadian system of government. Motivation for such a study came from the apparent lack of planning in the process whereby the use of the advisory board has become widespread. While this seemingly unconscious growth of institutional forms has been a feature of the British system from its beginnings, there is no guarantee that subsequent developments will continue to be in accordance with the fundamental theory of parliamentary democracy.

Adopted in the beginning on an ad hoc basis as a solution to problems occasioned by the expansion of government activities under the pressure of war and economic crises, the advisory board is a twentieth century innovation. Its historical origins are traceable to Great Britain, whence it came to Canada and was adapted to Canadian needs. The necessity for government to improvise new techniques was largely a result of the inability of an institutional framework designed for laissez faire to cope with twentieth century conditions.

CONCLUSIONS

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A survey of the various departments of the Federal government to ascertain conditions as they exist today reveals two principal factors in the growth of the advisory board: the recurring need for government to seek outside advice, and the desire of organized interests to make their voices heard at a strategic level.

With the factual information assembled, the task of relating practice to theory remains. The aim here is to discover any danger to the principles of representation or responsibility which are involved in the use of advisory boards. Potential as well as actual dangers must be taken into account.

In dealing with the representative principle it was found that although the theoretical case for the use of the advisory board is built on the fact that it broadens the base of representation, this has not been the primary motive for its use. While additional representation can be introduced at a strategic level by the use of the advisory board, there is no guarantee that the representation so introduced will be a more faithful reflection of the public interest. Unless care is exercised by the government the reverse can well be the result.

In relating the advisory board to executive responsibility two facts emerge: advisory boards cannot in any way make government more responsible; they do, however, lend

themselves to practices which can obscure or diminish executive responsibility.

The final part of the thesis is devoted to an appraisal of the various types of board, taking into account their practical value, and weighing this against any disadvantages from the standpoint of political theory. From this comparison a judgment is reached on the compatibility of the advisory board with the ideals of parliamentary democracy. As was expected, the result is not a single judgment applicable to advisory boards in general, but a number of conclusions ranging from approval to disapproval, depending on the type of board and the circumstances surrounding its formation and use. The major conclusions are summarized below:

1. Advisory boards composed of experts, and dealing in fact, offer little cause for concern.

2. Advisory boards with a membership drawn from a single well-organized interest group have little to recommend them from the standpoint of theory, and use of this type of board should be minimized.

3. Greater efforts should be made by departments faced with opposed interests to use the advisory board. With a carefully selected neutral representation the full potential of the advisory board might come closer to being realized.

4. In cases where policy affects a large number of interests, care should be taken to ensure that all are given the opportunity to be heard.

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5. In setting up advisory boards, there appears to be a need for government to take more care that the boards are balanced in terms of the affected interests, and that the representatives on the boards are truly entitled to speak for the class they represent. In the last analysis the work of an advisory board is directly dependent upon the quality of its membership.

6. The only sound motive for the establishment of an advisory board is a genuine need on the part of government for advice. Experience casts serious doubt on the long run value of boards established to enlist public support or to contain pressure.

7. The practice of setting up permanent advisory boards is open to question both from the standpoint of necessity and the maintenance of effective government control.

8. Secret meetings, and the lack of definite terms of reference, are open to objection on theoretical grounds.

In order to satisfy the above conditions, the government will have to take and maintain the initiative in the formation and use of the advisory board. If the advisory board is to continue to play a significant role in the process of government, the time is opportune for a more precise definition of this role and the establishment of a general framework within which it is to be played. If it is conceded that advisory boards have a potential value as an adjunct to government, there is no justification for allowing their development to continue on an unregulated, individualistic basis.

The real cause for alarm in the unregulated growth of the use of advisory boards lies in the lack of concern this has aroused despite potential danger to fundamental

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principles of democracy. If parliamentary democracy is based on a philosophy which views the state as a means to the achievement of the ends of the individual, then the operation of government must conform to the theory upon which it was established. The tremendous growth in the scope of government activity, brought about by wars, economic crises and the popular demand for social services in the present century has caused the executive to adopt a number of devices designed to cope with new problems. Unless these expedients are studied, so as to determine their long run impact on the existing theoretical framework, popular control over government may cease to be a fact. In carrying out this study, political theorists must take the lead if they are to fulfil the function society has the right to expect of them.

BIBLIOGRAPHY

Books

Corry, J.A., Democratic Government and Politics, Toronto, University of Toronto Press, 1951, 691 p.

Dawson, R. McGregor, The Government of Canada, Toronto, University of Toronto Press, 1954, 667 p.

Elliott, W.Y. and Neil A. McDonald, Western Political Heritage, New York, Prentice-Hall, 1949, 1027 p.

Faulkener, Harold U., American Economic History, New York, Harper and Brothers, 1954, 816 p.

Herring, E. Pendelton, Public Administration and the Public Interest, New York, McGraw Hill, 1936, 416 p.

Hewart, Rt. Hon. Lord, The New Despotism, London, Benn, 1945, 307 p.

Jennings, Sir Ivor, Cabinet Government, Cambridge, Cambridge University Press, 1959, 587 p.

Key, V.O. Jr., Politics Parties and Pressure Groups, New York, Crowell, 1958, 783 p.

Laski, Harold J., A Grammar of Politics, London, Allen and Unwin, 1934, 672 p.

-----, Parliamentary Government in England, New York, Viking Press, 1947, 383 p.

Leiserson, Avery, Administrative Regulation, A Study in Representation of Interests, Chicago, University of Chicago Press, 1942, 292 p.

Marx, Fritz Morstein, Ed., Elements of Public Administration, New York, Prentice-Hall, 1946, 637 p.

Ogg, Frederic Austin, English Government and Politics, New York, Macmillan, 1947, 786 p.

Schumpeter, Joseph A., Capitalism, Socialism and Democracy, New York, Harper and Brothers, 1950, 431 p.

BIBLIOGRAPHY

191

Vernon, R.V. and Nicholas Mansergh, Eds., Advisory Boards, A Study of Their Uses in Relation to Central Government, 1919-1939, London, Allen and Unwin, 1940, 520 p.

Wheare, K.C., Government by Committee, London, Oxford University Press, 1955, 264 p.

Articles

Andras, A., "Advisory Committees in Administration", in Proceedings of the Ninth Annual Conference, The Institute of Public Administration of Canada, 1957, p. 139-142.

Corbett, David C., "The Pressure Group and the Public Interest", in Proceedings of the Fifth Annual Conference, Institute of Public Administration of Canada, 1953, p.185-195.

Deutsch, John, "Parliament and the Civil Service", in Queen's Quarterly, vol. LXIII, no. 4, 1957, p. 565-573.

Giles, T.J., "Canada's Health Parliament", in Canada's Health and Welfare, May, 1955, p. 6-7.

Hannam, H.H., "The Interest Group and Its Activities", in Proceedings of the Fifth Annual Conference, Institute of Public Administration of Canada, 1953, p. 171-181.

Hodgetts, J.E., "The Civil Service and Policy Formation", in Canadian Journal of Economics and Political Science, vol. 23, no. 4, 1957, p.467-479.

Horowicz, J.H., "Advisory Boards and Committees in Government Administration", in News Bulletin, Institute of Public Administration, vol. 4, no. 2, 1954, p. 19-21.

Perkins, John A., "Permanent Advisory Committees to the British Government Departments", in the American Political Science Review, vol.34, no. 2, 1940, p. 85-96.

Shoyama, T.K., "Advisory Committees in Administration", in Proceedings of the Ninth Annual Conference, the Institute of Public Administration of Canada, 1957, p. 145-153.

Trueman, H.L., "Advisory Committees in Administration", in Proceedings of the Ninth Annual Conference, The Institute of Public Administration of Canada, 1957, p. 129-136.

BIBLIOGRAPHY

192

Unpublished Manuscripts

Farrell, R.B., Interest Groups in Canadian Government, unpublished Bachelor's thesis, presented to the Department of Political Science of Queen's University, 1947, 249 p.

Jewett, Pauline, Advisory Committees in Canadian Government, unpublished Master's thesis, presented to the Department of Political Science of Queen's University, 1945, 86 p.

Jones, Helen I., The Canadian Federation of Agriculture, unpublished Master's thesis, presented to the Department of Political Science, Queen's University, 1954, 165 p.

Other Sources

Farmers Meet the Cabinet, various years, a pamphlet summarizing the annual presentation of the Canadian Federation of Agriculture to the Federal Cabinet.

Labour Gazette, various issues.

Debates, Canadian House of Commons, various years.

Report of the Hospital Services Planning Commission, Nova Scotia, 1958, 102 p.

Sharp, Mitchell R., Reflections of a Former Civil Servant, notes for talk, Nov. 14, 1958, reproduced by the Civil Service Commission, 7 p.

Personal Interview with H.H. Hannam, Ottawa, July 18, 1958.

BIBLIOGRAPHY

193

Memoranda to I.P.A., Ottawa Branch

Department of Agriculture, by H.L. Trueman, Director Administrative Services, 18 March, 1954.

Department of Citizenship and Immigration, by Laval Fortier, Deputy Minister, 30 June, 1954.

Department of Defence Production, by R.M. Brophy, Deputy Minister, 24 February, 1954.

Department of External Affairs, by Paul Malone, Information Division, 25 February, 1954.

Department of Finance, by K.W. Taylor, Deputy Minister, 15 April, 1954.

Department of Fisheries, by Stewart Bates, Deputy Minister, 19 February, 1954.

Department of Justice, by F.P. Miller, Assistant Director of Remission Services, 18 March, 1954.

Department of Labour, by J. Howard Currie, Executive Assistant to the Deputy Minister, 15 March, 1954.

Department of Mines and Technical Surveys, by Marc Boyer, Deputy Minister, 5 March, 1954.

Department of National Defence, by E.B. Armstrong for C.M. Drury, Deputy Minister, 17 March, 1954.

Department of National Health and Welfare, by George F. Davidson, Deputy Minister, 24 February, 1954.

Department of National Revenue (Customs and Excise), by Raymond Labarge, General Executive Assistant, 9 April, 1954.

Department of National Revenue (Taxation), by Charles Gavsie, Deputy Minister (Taxation), 23 February, 1954.

Department of Northern Affairs, by C.W. Jackson for R.G. Robertson, Deputy Minister, 1 April, 1954.

Post Office Department, by A. Gagnon, Director of Administration, 13 April, 1954.

BIBLIOGRAPHY

194

Department of Public Works, by W.A. MacDonald, Chief of Information Services, 6 May, 1954.

Department of Secretary of State, by C. Stein, Under-Secretary of State, 23 March, 1954.

Department of Trade and Commerce, by L.J. Rodger, Personnel Officer, 2 April, 1954.

Department of Transport, by C.W. West, Deputy Minister, 31 March, 1954.

Unemployment Insurance Commission, by E.C. Desormeaux, Secretary, 4 March, 1954.

Department of Veterans' Affairs, by L. Lalonde, Assistant Deputy Minister, 17 August, 1954.

APPENDIX I

CONTENTS OF THE QUESTIONNAIRE TO FEDERAL GOVERNMENT
DEPARTMENTS

1. Name of Advisory Board or Committee.
2. Name of Department and that of any other Federal department or agency in connection with which it operates.
3. Date on which it was set up.
4. Authority by which it was set up.
5. Terms of reference.
6. Functions.
7. Membership:
 - a) Frequency of meetings.
 - b) Place or places of meetings.
 - c) Name of Chairman and any other public or private offices held by him.
 - d) Size of membership.
 - e) Method of appointment of members.
 - f) Tenure of appointment of members.
 - g) Qualifications required for membership.
 - h) Provision for compensation of members, if any.
8. The essential purpose in setting it up.
9. Any points of interest in connection with its operation.

APPENDIX II

PERSONNEL OF THE ADVISORY COMMITTEE
TO THE AGRICULTURAL PRICES STABILIZATION BOARD

J.L. Dewar, Secretary, Prince Edward Island
Federation of Agriculture.

J.B. Lemoine, President, L'Union Catholique
des Cultivateurs.

R. Ferron, Cooperative Federee des Quebec.

G.A. McCague, Vice-President,
United Co-ops of Ontario.

O.A. Turnbull, Saskatchewan, Grain farmer and
livestock man.

D.J. McKinnon, President, Canadian Council Beef
Producers, Calgary.

V.E. Ellison, British Columbia, fruit and
cattle farmer.

Frank E. Lutes, Berry Mills, New Brunswick.

John McAllister, Farmers' Union, Portage la Prairie,
Manitoba.

APPENDIX III

ABSTRACT OF

Advisory Boards and Responsible Government in Canada¹

The problem raised is the significance of the rapid growth of the use of advisory boards by government since the beginning of the twentieth century for the student of political theory. When these boards are made up wholly or partially of persons who belong to neither the legislative nor the executive branch of government, how can the participation of such boards at a policy making level be reconciled with the generally accepted theory of representative, responsible government?

Examination of the use of advisory boards from their beginning in Britain to present day practices in Canada at the Federal level provides the data for the problem. A case study of the Federal Department of Agriculture which has made early and extensive use of advisory boards provides a wealth of practical examples.

In seeking to determine the theoretical implications of the use of advisory boards they are examined first with reference to the representation of the public in the process

¹ Ph.D. thesis presented by William J. Dalton, in 1960, to the Faculty of Social, Economic and Political Sciences of the University of Ottawa, vii-199 p.

of government. The same type of analysis is then applied to the impact of advisory boards on the ability of parliament to demand an accounting of the executive.

The final section of the thesis attempts to synthesize the practical and theoretical considerations which arise in the use of the advisory board. This is done in order to reach conclusions which will attempt to answer the questions raised. While the individuality of the practices in the different cases studied precludes the arrival at conclusions which can be applied to advisory boards as a whole, certain general conclusions with reference to particular types of board are reached. In addition, recommendations dealing with various aspects of the formation and operation of advisory boards are advanced. The major conclusions follow:

1. Advisory boards composed of experts, and dealing in fact, offer little cause for concern.
2. Advisory boards with a membership drawn from a single well-organized interest group have little to recommend them from the standpoint of theory, and the use of this type of board should be minimized.
3. Greater efforts should be made by departments faced with opposed interests to use the advisory board. With a carefully selected neutral representation the full potential of the advisory board might come closer to being realized.
4. In cases where policy affects a large number of interests, care should be taken to ensure that all are given the opportunity to be heard.

5. In setting up advisory boards, there appears to be a need for government to take more care that the boards are balanced in terms of affected interests and that the representatives on the boards are truly entitled to speak for the class they represent. In the last analysis the work of an advisory board is directly dependent on the quality of its membership.

6. The only sound motive for the establishment of an advisory board is a genuine need on the part of government for advice. Experience casts serious doubt on the long run value of boards established to enlist public support or to contain pressure.

7. The practice of setting up permanent advisory boards is open to question both from the standpoint of necessity and the maintenance of effective government control.

8. Secret meetings and the lack of definite terms of reference are open to objection on theoretical grounds.