

The British Columbia Crown Corporations Committee: Comparisons and Implications¹

R. S. MILNE

The study of crown corporations in British Columbia has lagged behind the enterprise of politicians in creating them.² They play an important role in the province's economy — and politics; the twenty or so corporations employ about 20,000 people (more than half the number employed in B.C.'s government departments), and some are major instruments of development. Additionally, they are "shared" or "mixed" enterprises; quasi-public corporations, which straddle the public and private sectors; and non-commercial instruments in corporate form, such as public hospitals, school boards and so on.³

The present article looks at a body intended to keep accountable some of the major crown corporations, the Crown Corporations Committee of British Columbia, set up by a Social Credit government in 1977. In 1983, as part of a post-election economy program, a Social Credit government under the same Premier announced that the committee would be eliminated. The relevant legislation (Bill 21) was given a first reading on 7

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² But see John W. Langford and Neil A. Swainson, "Public and Quasi-Public Corporations in British Columbia," in O. P. Dwivedi, ed., *The Administrative State in Canada* (Toronto: University of Toronto Press, 1982), pp. 63-87; Neil A. Swainson, "The Crown Corporation in the Governance of British Columbia" (paper delivered at the Annual meeting of the C.P.S.A., May 1981); Aidan R. Vining, "Provincial Hydro Utilities," in Allan Tupper and G. Bruce Doern, eds., *Public Corporations and Public Policy in Canada* (Montreal: Institute for Research on Public Policy, 1981), pp. 149-88; A. Vining and R. Botterell, "An Overview of the Origins, Growth, Size and Functions of Provincial Crown Corporations," in R. Pritchard, ed., *Crown Corporations in Canada: The Calculus of Instrument Choice* (Toronto: Butterworths, 1981).

³ Swainson, *op. cit.*, pp. 22-23.

July 1983 but was taken no further. However, a smaller reconstituted committee met in August and terminated all staff appointments, thus effectively ending the committee's work, and it has not met since. This paper, consequently, constitutes an obituary, and the past tense is used in referring to the committee's activities.

The sequence followed is: to provide basic information on the committee's creation and method of operation; to look at its relationships internally and with other organizations; to consider the focus of its attention and the impact of its recommendations; and to assess its effectiveness in the wider context of B.C.'s pattern of legislative-executive relations.

Two main reasons for the creation of the committee were put forward by the Premier, W. R. Bennett, in 1977. One was inadequacy of existing channels through which members of the Legislature could be informed about, and criticize, the crown corporations' activities. To be sure, some improvements were made in 1973 by the introduction of a daily question period and the inclusion of the corporations' financial statements in the public accounts, together with their being made available to the Public Accounts Committee (PAC).⁴ It also became established that officers of the corporations should appear for questioning before that committee. But even in 1973 opportunities for parliamentary scrutiny of the corporations in any depth were still absent. The question period was constrained by shortage of time and was marked by the opposition's desire to use current events for scoring political points. In discussion of the estimates the focus was on specifics, such as particular rates, grants or subsidies. By 1977 the PAC was doing a reasonably good job, but it had to deal with government departments and other agencies as well as the corporations, could not operate except when the House was in session, and lacked trained staff.⁵ These deficiencies could be made good only to a limited extent by the use of ad hoc inquiries into particular corporations.⁶ Additionally, the Premier described the proposed committee as part of a trio of reforms designed to ensure greater accountability, the other two being the appointment of an

⁴ *Ibid.*, pp. 18-19; Langford and Swainson, *op. cit.*, pp. 83-84. Even then, one official appearing before the PAC said his directors had told him to limit his comments to the accounts of the previous year (*Province*, 22 March 1973).

⁵ *British Columbia: Debates of the Legislative Assembly, Thursday, August 25, 1977*, vol. 7, no. 6, p. 4945; Karen Jackson, "Legislative Oversight — Crown Committees' Conclusions" (unpublished paper done for the B.C. Government Research Project), pp. 2, 6, 7. After the Crown Corporations Committee was set up the PAC ceased to deal with the four corporations covered by that committee.

⁶ E.g., Royal Commission on the British Columbia Railway, *Report* (3 vols.), 1978.

Auditor-General and of an Ombudsman.⁷ He was particularly concerned with B.C. Hydro, which made policy decisions that were not the government's; government no longer "feel that they have to shield it and protect it because they somehow become accountable for it." The policies it made for five to ten years ahead should, he felt, be under constant scrutiny.⁸

The Crown Corporations Committee had a high degree of independence. It was the only committee of the Legislature which had a statutory authority of its own. Its members were appointed for the life of the Legislature, and could meet even when it was not in session. By standing order no member of the executive council (minister) could be appointed to it, and by convention a member of the committee appointed to be a minister resigned from it. Its costs and expenses were guaranteed by statutory appropriation. It appointed its own staff, who were not subject to the Public Service Act.⁹

In one sense the committee was less strong, because less backed by bipartisan support initially, than it could have been. In spite of opposition objections, its chairman was a government member, even though since 1973 the PAC has been chaired by an opposition member. By the Act creating the committee, the chairman had the power to appoint sub-committees, and in practice had a major say in deciding the committee's agenda. Including the chairman, there were nine government and six opposition members. Appointment for the life of the Legislature contributed to stability of membership; almost without exception, members ceased to be on the committee only if they died, left the House, or became ministers. Consequently, over the period January 1978 to March 1982 only twenty-eight persons had sat on the committee.¹⁰

The Act refers briefly to the committee's responsibilities and procedures. It was to give primary consideration to the public interest in respect of each corporation, the interest of the crown as shareholder or principal of the corporation, and the Crown's responsibility in respect of the corporation. The committee had to be provided with a copy of the annual

⁷ *British Columbia: Debates . . .*, *op. cit.*, pp. 4947, 4959.

⁸ *Ibid.*, pp. 4945, 4957, 4958.

⁹ On these provisions see the Crown Corporation Reporting Act, 1979 (R.S. Chap. 84), also other Acts referred to in the Act and Standing Order 72(a).

¹⁰ Figures calculated from the committee's reports. On the rapid rate of rotation in federal parliamentary committees see Robert J. Jackson and Michael M. Atkinson, *The Canadian Legislative System* (Toronto: Macmillan, 1980), p. 141; Roman R. March, *The Myth of Parliament* (Scarborough, Ontario: Prentice-Hall, 1974), pp. 115-18.

report of each corporation, and was empowered, as is the Legislative Assembly, to require a corporation's officials to appear before it. Although not specifically stated in the Act, the committee decided, as envisioned by Premier Bennett, that it should consider not just the past record of a corporation but also its future plans.

In some important respects the committee's powers were limited. Its scope was confined to only four of the largest corporations: B.C. Hydro and Power Authority; B.C. Railway Company; B.C. Ferry Corporation; and the Insurance Corporation of B.C. (ICBC). Originally it also dealt with the Housing Corporation of B.C., but that corporation's life ended soon after the committee began to function. The choice of these four corporations was understandable. Three are particularly sensitive politically, because many members of the public are affected by the incidence of their fees, rates or charges. The fourth, B.C. Rail, has a smaller clientele, but had just been the subject of inquiry by a royal commission and was soon to become a major item of interest because of its role in the development of northeast coal, to be heavily subsidized by the taxpayer. Significantly, 77 per cent of the questions asked on crown corporations in the Legislative Assembly in 1978 concerned these four corporations.¹¹

Not only was the committee unique in possessing powers which other committees of the B.C. Legislative Assembly lacked, it also approached uniqueness on a national or even international scale. Its closest provincial counterpart, the Crown Corporations Committee in Saskatchewan, does not have the same mandate to inquire into future plans and activities, nor does it hold hearings, its data being provided mainly by reports, financial statements and written questions referred to it by the Assembly.¹² An Ontario legislative committee, 1975-1981, dealt only with Ontario Hydro, and was essentially an ad hoc response to consumer unhappiness about a particularly sharp rise in rates. At the federal level in Canada, there is no parliamentary committee which is occupied only with crown corporations, although a committee of this kind has been proposed quite often.¹³ Perhaps the closest equivalent, functioning in a somewhat similar political milieu, is the former British Select Committee on Nationalized Industries (SCNI), with which some comparisons are drawn later in this paper.

¹¹ Jackson and Atkinson, *op. cit.*, p. 3.

¹² *Public Enterprise in Saskatchewan* (Regina: Government Finance Office, December 1977). Some changes were made by the Crown Corporations Act of 1978.

¹³ Jackson and Atkinson, *op. cit.*, p. 205.

Given the complexities of the B.C. crown corporations' operations, it was imperative that the new committee should acquire a good staff. Initially it had to rely on consultants, but in February 1978 appointed a director with extensive experience in the federal government, particularly in financial analysis. In April 1980 he was succeeded by an engineer with project and business planning experience. Other staff, recruited later, had backgrounds in such fields as finance, economics, business administration, engineering, transportation and insurance. Members of staff were hired without the restrictions imposed by the Public Service Act, and normally served for only two or three years. The tendency was for staff members to concentrate on one, or at most two, corporations; after a time they might find themselves becoming too closely identified with a corporation¹⁴ or becoming a little bored with it. Incidentally, the rate of staff turnover (up to the time of the May 1983 provincial election) was about the same as that of the members. However, continuity of the staff operations was assured by the committee files.

In considering how the committee functioned, a distinction has to be drawn between the activities of the staff, which were continuous, and those of the members, which were not. The staff was in regular contact with its counterparts in the corporations, acquiring information, keeping in touch with developments, occasionally giving advice. During an inquiry into a corporation the appropriate staff members provided background information in the form of briefing papers, indicating areas on which committee members might usefully put questions. The committee itself usually met once a month except when the business of the House did not permit this. Before public hearings were held the committee (or a subcommittee) met privately for a briefing with officials of the corporation. Such private meetings continued during the course of the inquiry.

The power to appoint subcommittees was contained in the Act, but was initially not used except for a management subcommittee. It was thought that "functional" subcommittees might detract from the work of the House itself. However, early in 1981 four were established, one for each corporation. The chairman appointed three members, as well as an alternate member, for each, after members had expressed preferences. The innovation apparently worked well. It allowed members to specialize, and, when reporting to the full committee, pass on their more specialized knowledge to those not on the subcommittee. The subcommittees also per-

¹⁴ *Committee on Crown Corporations, Fourth Annual Review of Operations, April 1, 1981 to March 31, 1982*, p. 3.

mitted representatives of interest groups to articulate their concerns in a confidential atmosphere.

To fulfil its statutory obligation of examining each corporation at least once every three years, as well as keeping in touch with all four corporations, the committee concentrated on each in turn. In 1978 there were four public hearings on Hydro, one on ICBC and one on the Housing Corporation. In 1980 there were four each on B.C. Ferry and B.C. Rail, another on B.C. Rail in 1981, as well as three on ICBC in 1982 and one in 1983. The hearings on each corporation were followed by a report, or reports, to the Legislature.

For each corporation the committee focused on certain topics—for example, for Hydro, urban transit services, forecasts of electricity needs, and policy on electricity exports. In each case the committee used the corporation's reports as a basis for looking at its plans for the future.

In assessing the work of the committee it must be borne in mind that the subject matter was complex, not just because it extended over a wide range of technical expertise but also because it was shot through with financial and accounting implications. Even with the help of the staff, which was not sufficiently numerous to cover all the technical angles, the level of understanding attained by committee members was necessarily limited. One member said that during the Hydro hearings he was drowned in an avalanche of information. Hydro's chairman, Robert Bonner, referring to the financial complexities of Hydro's agreement with the CPR, observed: "there's no way, if I may suggest it, that the committee's going to put its mind around that subject between now and next noon. As a matter of fact, there are only two or three people in the whole corporation who understand it."¹⁵

Often there was an emphasis on constituency interests. Frank Howard put forward a plea that the B.C. Ferry Corporation should examine the possibility of providing a service to Kitimat, and even wanted the committee to support it with a vote.¹⁶ This type of advocacy was legitimate, even desirable. If it were pushed too far, however, other committee members indicated their reactions in a good-humoured way.

Some members had fixed ideas, only loosely related to costs and benefits, such as an intense conviction of the desirability of rail passenger services. A collective instance of fixation on a "motherhood" issue was the

¹⁵ *Official Report of Committee on Crown Corporations, Vancouver, B.C., November 10, 1978*, p. 10.

¹⁶ *Official Report of Committee on Crown Corporations*, 1 May 1980, p. 21.

committee's enthusiasm for promoting road safety, even though this is not mentioned in the ICBC Act; nor, apparently, was it the subject of a directive from government. But there seemed to be a gap in what was being done by other organizations, and the committee not only pursued the topic in a 1982 ICBC hearing, but also issued a special report on it.

As regards financial and accounting expertise, it almost seemed that members could be divided into two broad categories; those who were at home on such topics as rates, subsidies, cost-benefit, investment, debt-management and so on, and those who were not so near to home. The relative permanence of members on the committee did enable them to learn something about the subject matter in question and also helped to promote a feeling of committee solidarity. Additionally, the attendance rate was high — approximately 90 per cent at public hearings. However, provincial elections obviously increased the turnover rate, as was evident after the 1979 election.

The committee staff constituted a great asset, not available to the PAC. The staff not only had to demonstrate sufficient ability to make a huge organization such as Hydro respect it, it also had to win and keep the confidence of the committee's members. Especially when the committee was new, the staff had two main public relations tasks: to convince members that it was genuinely bipartisan, and to enlist their co-operation without confusing them with a surfeit of abstract principles. Interviews with committee members of both major parties indicate that both endeavours were successful.

The staff was bipartisan in the sense that, once a director had been appointed, he made other staff appointments with the committee's approval.¹⁷ However, the fields in which the staff were trained suggest that their views were rather "pro-free-enterprise." Indeed, it was said that an initial reaction of some newly appointed staff was to ask, "why doesn't the government run the corporations as a business?" Apparently this attitude was soon qualified once they saw the nature of their job. The second task was perhaps more difficult. A committee member, in paying tribute to the staff, observed: "in a way it's unnecessary for the committee members to be there except that they represent the public." However, the members *were* there, and they had that important function to perform. In putting together reports, for example, it was out of the question for members

¹⁷ According to one source, at the very start of the committee's operations, before a director had been appointed, a possible staff appointment was blocked after suggestions of patronage.

actually to write reports themselves. On the other hand, they would rightly have objected if the reports were written *for* them. Yet at times some were reluctant to comment on drafts, and some suggested changes which tended to damage the unity of a report. The report on the B.C. Ferry Corporation caused particular difficulty, because it raised complex questions of future policy regarding routes, charges, costs and benefits which were politically sensitive. The points raised cut across party lines; the problem was perhaps rather that the application of economic principles conflicted with some members' perception of political realities.¹⁸ Consequently, early drafts of the report had to be replaced by a more accommodating one, which for tactical reasons was entitled an "interim" report.¹⁹ Repetitions of this situation were avoided partly because the staff had been alerted to the problem. In addition, the use of subcommittees provided a means by which some members and staff could have more intensive and informal discussions leading to close agreement on drafts before they were submitted to the full committee. The committee, in turn, was more disposed to accept them because they already had the support of colleagues in whose judgement they had confidence.

The proceedings of the committee were largely bipartisan. This applies to public hearings, even more to sessions *in camera*, and most of all to subcommittee meetings. It seems that no serious consideration was given to the possibility of issuing minority reports. An incentive for NDP members not to press for this may have been that some reports, referred to later, were quite critical of actions of the government. Both parties apparently thought that bipartisanship was the proper approach, although early on there were a few signs that partisanship died hard. In the hearings on B.C. Hydro there was some mild "head-hunting" of previous top officials of the corporation (appointed during both Social Credit and NDP administrations). However, although the possibility of calling them to give evidence was mooted,²⁰ it was not proceeded with, apparently by tacit agreement. One member, at least, who at first was sceptical about the possibility of an impartial committee, was convinced when he saw that Hydro reports even-handedly criticized its policies under governments of both major parties.

Occasionally, of course, partisan considerations did affect the workings

¹⁸ Apparently they were still unconvinced after a slide show.

¹⁹ Interview with David Jacobs, first Director of Staff, 16 November 1981.

²⁰ *Select Standing Committee on Crown Corporations, Victoria, June 14, 1978*, pp. 52-53.

of the committee. Its Social Credit members would sometimes be especially solicitous of corporations their party had established — there was, for example, some Social Credit criticism of the way Hydro had functioned under the NDP from 1972 to 1975 — and Eileen Dailly of the NDP once accused Social Credit of undermining the ICBC. “One would almost say,” as she put it, “that there had been a deliberate attempt to destroy ICBC by some of the policies which have been forthcoming.”²¹ On balance, however, the committee operated in a bipartisan manner. Notwithstanding the government’s decision that the chairman should not come from the opposition, one of the four subcommittee chairmanships was given to an NDP member, and two of the subcommittees actually had an NDP majority.

Just as the committee became more bipartisan with time, so did it become less adversarial towards the corporations, although some of this effect may be attributable to the sequence in which they were examined and to the personalities concerned. At the first hearing held by the committee the chairman expressed the hope that the committee would not be seen as an adversary; nor did it in fact assume that role during the hearing, which was on B.C. Housing.²² But the hearings on B.C. Hydro and ICBC, held soon afterwards, were different. As one member remarked, both Mr. Bonner (Hydro) and Mr. Sherrill (ICBC) seemed reluctant to give time and effort to the hearings. According to him, they were both promptly put in their place and reminded that the committee represented the public.²³ In later meetings, on B.C. Ferry, B.C. Rail and ICBC, an adversarial atmosphere was almost totally absent. An ICBC official said that one or two members at the start of a public hearing had struck adversarial poses in front of the media for political reasons, but had then quickly settled down to business.

Overall, the committee gained credibility with the corporations, although originally it was sometimes viewed as just one more controlling, and complicating, authority. However, later there was general agreement among the corporations that the committee has shown itself to be much more effective than the PAC was formerly.

²¹ *Official Report of Committee on Crown Corporations, Vancouver, B.C., February 25, 1982*, p. 6.

²² *Committee on Crown Corporations, Victoria, April 12, 1978*, p. 1.

²³ *Ibid.*, May 10, 1978, pp. 3-5, 8-9; *Committee on Crown Corporations, Vancouver, B.C., September 15, 1978*, pp. 4-5, 21-27; *Official Report of Committee on Crown Corporations, September 28, 1978*, pp. 21-27; *Official Report of Committee on Crown Corporations, Vancouver, B.C., November 10, 1978*, p. 22.

To some degree the committee moved from an adversarial role to an advocate's role. In the triangle of forces — government-corporation-committee — it quite often found itself aligned with a corporation as its supporter, articulator, or even champion.²⁴ However, it was not a mere mouthpiece of the corporations, telling them what they told it they wanted to hear.

Sometimes the alignment of the committee with a corporation was on a single dramatic issue, such as the proposed \$(U.S.) 100 million loan for B.C. Rail, referred to below. More important, perhaps, was the long-term effect of giving a corporation the chance to dispel in public misconceptions of its role and to make its case for fair treatment by government. This was achieved during the B.C. rail hearings when the corporation was able to explain the debt question and put the case for repayment from government for services undertaken at its request. In a quieter way the ongoing liaison between the committee staff and Hydro staff was particularly useful in enabling advice to be given to Hydro on some of the issues raised by the B.C. Utilities Commission, set up in 1981.

Representatives of interest groups and the public could, and did, attend committee hearings. But none sought to testify there. Since the committee was a committee of the House, the proceedings did not resemble a public forum in the way that those of the B.C. Utilities Commission do. However, the use of subcommittees enabled groups to make representations in a non-formal setting.

The effectiveness of the committee's work is best considered under two headings. First, what was its impact on the committee members, other MLAs and the Legislature, and the media? Second, on what issues did it recommend change, which of these have been effected, and what was the committee's contribution?

The greatest impact of the committee was probably on the members themselves, who became better informed and "educated." Their perception of a corporation sometimes altered considerably: "... it's been mentioned a few times that this is a debt-ridden railway. I must confess that a few years ago I thought of it as badly managed, but I must say that my views are changing ... I'm impressed with the handle you seem to have on the affairs of the railway."²⁵ The "education" of the members was

²⁴ Cf. Leonard Tivey, "Nationalized Industries as Organized Interests," *Public Administration* 60 (Spring 1982), p. 43; William Thornhill, *The Modernization of British Government* (London: Pitman, 1975), pp. 162-63.

²⁵ *Official Report of Committee on Crown Corporations*, 7 August 1980, p. 20.

shown in their more sophisticated questions and contributions to debate in the House, and probably also in the *absence* of *less* sophisticated questions and contributions. The effect on other members of the Legislature was not so noticeable. The mass of material produced by the committee was probably too great for some to assimilate. However, the material was useful on various topics for ministers and for opposition critics (who might not themselves be on the committee), and was sometimes cited in debate.

Neither the reports of the corporations nor the committee's own reports were debated in the Assembly; one possible way of spreading the information gathered by the committee and bringing it to the attention of the government was therefore lost. If the argument that the Assembly's time was limited is accepted, then at least the committee's annual reports could have been debated. Also, as has been done in Britain, and suggested for the Canadian House of Commons, the government department responsible for the corporation could have been required to respond to committee reports and say why it agreed or disagreed with particular recommendations in them.²⁶

The media were useful in reporting issues which members brought up in the committee. They were less helpful in conveying a sober account of what the committee's work was. It was not in business to provide sensations or horror stories, but there was a fear in the corporations that the media might "play things up," publish leaks or perpetuate clichés, such as that of the "debt-ridden railway." On the other hand, the media were sometimes slow to recognize news. A hearing which brought out the considerable extra costs of employing union labour in developing a railway extension²⁷ was not reported until several weeks afterwards.

Looking at the committee's operations as a whole, what major themes attracted its attention?

First, it was obviously interested in the services provided by the corporations. Was a ferry service available to a particular locality, and, if so, did it run when people wanted it? Were procedures for ICBC claims as efficient and as painless as possible?

Second, the committee scrutinized organizational forms and procedures. At the highest level, it queried the presence of ministers on corporation boards. It wanted Hydro's board to be enlarged, from a "mini-board" of

²⁶ Jackson and Atkinson, *op. cit.*, pp. 198-205. For recent proposals to increase committee powers in the Canadian House of Commons, see *The Globe and Mail*, 19 December 1985.

²⁷ *Official Report of Committee on Crown Corporations, October 22, 1981*, pp. 36-43.

three to nearer the permitted maximum of fifteen.²⁸ The committee also recommended that some of Hydro's major functions, such as urban transit, might be removed from it, while others might be devolved upon autonomous subordinate companies.²⁹ The committee also made recommendations for change at the lower organizational levels of corporations, for instance on the composition of Hydro's (internal) audit committee. It also criticized Hydro's tendering procedures, including the excessive use of "emergency" provisions.³⁰

Third, the committee was dissatisfied with the lack of clarity in the objectives laid down for crown corporations. This was related to: vagueness of the legislation; in the case of the B.C. Ferry Corporation, the absence of a corporate plan; and the unpublicized nature of government directives. Vagueness of legislation was particularly serious for the B.C. Ferry Corporation, because the directors had not been successful in translating it into more concrete objectives. Criteria for the allocation of the government subsidy consequently remained unclear.³¹ The committee found no evidence that a proper five- or ten-year corporate plan existed.³² On the other hand, B.C. Ferry's management felt that it was operating under conditions that were too uncertain to allow it to formulate such a plan; "they're hampered to a large degree because they don't know where their next dime is coming from."³³ What was missing was a clear statement of government policy. Apparently the government's wishes were conveyed, if at all, informally, while it retained in its own hands authority for route additions and deletions, fare levels and acquisition of assets.³⁴ The committee's general opinion on this question was "that direction by

²⁸ *Committee on Crown Corporations, British Columbia Hydro and Power Authority; Construction Management Practices Columbia River Treaty Projects, April 1979*, pp. 10, 73.

²⁹ *Committee on Crown Corporations, British Columbia Hydro and Power Authority, Construction Management Practices . . .*, *op. cit.*, pp. 75-76; *Committee on Crown Corporations: Inquiry into British Columbia Hydro and Power Authority, B.C. Hydro Transit — Interim Report, May 1978*, pp. 11-13; *Committee on Crown Corporations Statutory Report on Operations, December 15, 1978 — March 31, 1980*, p. 9.

³⁰ *Committee on Crown Corporations, Victoria, May 31, 1978; Select Standing Committee on Crown Corporations, Victoria, June 14 [1978]*, pp. 25-26.

³¹ *Committee on Crown Corporations, Inquiry into the British Columbia Ferry Corporation, Interim Report, January 1981*, pp. 39, 40, 58-59.

³² *Ibid.*, pp. 19, 32, 61-62.

³³ *Committee on Crown Corporations, Vancouver, B.C., February 26, 1981*, p. 8.

³⁴ *Committee on Crown Corporations, Inquiry into the British Columbia Ferry Corporation, Interim Report, January 1981*, p. 58.

government, when exercised be overt, comprehensible and subject to public scrutiny." Further, "government always has the right to issue formal instructions to Crown Corporations through Orders-in-Council, or Acts of the legislature, and by these means the separation between a policy direction to a corporation and that corporation's response to it can be clearly identified and monitored by this Committee, the full Legislature, or any public Commission set up for that purpose."³⁵

Fourth, the committee wanted the sources of inputs and the destination of outputs to be ascertained and publicized. Where a corporation had undertaken a service at government request for social reasons, the government should make an appropriate payment.³⁶ B.C. Rail provided a good case in point. Largely as a consequence of having supplied "development" services for the government, the railway had accumulated a large debt, which, in the committee's view, it could not "hope to service or repay, even from efficient operations." The government, according to the committee, should reorganize the corporation financially by writing off its deficits,³⁷ as was done in the budget of early 1984. How much of the deficit arose from government demands for development and how much from the inefficiencies of previous managements was uncertain. However, the costs of meeting future government requirements could be much more clearly established. When the committee held hearings on B.C. Rail, the corporation's stand was that if the board was "asked to implement a political or government objective, our terms would be: 'well, that's fine. If we have the know-how, we can do it, but this is what we're going to have to require.'"³⁸ The government accepted this principle for two particular projects. However, it did not accept any definite commitment to compensate crown corporations for all costs incurred in following government directives.

The B.C. Ferry Corporation presented another type of cost-benefit exercise. The issue was the use of a government subsidy to cross-subsidize

³⁵ *Committee on Crown Corporations*, British Columbia Hydro and Power Authority, *Construction Management Practices . . .*, *op. cit.*, pp. 73-74; *Committee on Crown Corporations*, *Fourth Annual Review of Operations*, *op. cit.*, pp. 6-7.

³⁶ *Committee on Crown Corporations*, *Statutory Report on Operations*, *op. cit.*, p. 3.

³⁷ *Official Report of Committee on Crown Corporations*, July 19, 1980, pp. 19-20; *Crown Committee on Crown Corporations*, *Report on the Inquiry into British Columbia Railway*, April 20, 1982, pp. 7-1 to 7-15; *Committee on Crown Corporations*, *Fourth Annual Review of Operations*, *op. cit.*, p. 18.

³⁸ *Official Report of Committee on Crown Corporations*, 7 August 1980, p. 10. See also *ibid.*, 17 July 1980, p. 3.

passengers on some routes at the expense of those on others.³⁹ The committee's report on the corporation proposed that the allocation of the subsidy among different routes should be based not on "route-miles" but on "passenger-miles," taking account of actual distances travelled on the various routes.⁴⁰ Earlier, the committee had cited avoidance of cross-subsidization as a reason for removing urban transit service from B.C. Hydro.⁴¹ The relation of charges to benefits for different groups was also an issue for ICBC. The FAIR program, introduced in March 1981, substantially reduced premiums for younger drivers, particularly males under 30, a particularly appealing feature electorally. The committee staff, however, pointed out that the ICBC premise that younger drivers made claims which were only slightly above the average was not very firmly substantiated.⁴² FAIR was replaced by another scheme, announced in June 1982, which provided that blameworthy accidents should result in higher penalty premiums, taking effect step by step.⁴³

These are only some of the categories of items investigated by the committee. The others ranged all the way from minor questions of organization to some of major importance, notably Hydro policy on the export of electrical energy.⁴⁴

It is easy to say which of the committee's recommendations were followed and which were not. Prominent among the former were: procedural and organizational changes in Hydro, including the appointment of more members to the board and the splitting off of transit functions; recognition of the principle that government should pay the cost of social or development programs undertaken by a corporation at its request; and the financial restructuring of B.C. Rail's commitments. The committee did not, apparently, make much impression, in the short run at least, on some other points: more explicitness in corporations' mandates, including directives; guidance on the lines of government policy for B.C. Ferry;

³⁹ *Committee on Crown Corporations, Inquiry into the British Columbia Ferry Corporation, Interim Report, op. cit.*, pp. 38-55.

⁴⁰ *Committee on Crown Corporations, Third Annual Review of Operations, April 1, 1980-March 31, 1981*, p. 14.

⁴¹ *Committee on Crown Corporations; Inquiry into British Columbia Hydro and Power Authority, B.C. Hydro Transit — Interim Report, May 1978*, pp. 12-13.

⁴² *A Briefing Paper for the Committee on Crown Corporations, Insurance Corporation of British Columbia, Survey and Annual Report Review, February 1982*, pp. 42-43.

⁴³ *Committee on Crown Corporations, Fourth Annual Review of Operations, op. cit.*, p. 24.

⁴⁴ *A Briefing Paper for the Committee on Crown Corporations, The Export of Electricity from British Columbia, Parts 1 and 2, August and September, 1979.*

awareness and avoidance of cross-subsidization; and the undesirability of having ministers on the board (although it was decided that the minister on the board of B.C. Ferry would no longer be chairman).

It is more difficult to establish that in the changes which actually were made the committee was *the*, or even *a*, decisive factor. Sometimes a corporation or the government claimed the credit. Some Hydro officials thought that changes in their corporation resulted from internal or government decisions, not from the actions of the committee. Certainly the possibility of divesting Hydro of its transit function was mooted by the Premier when introducing the bill to set up the committee.⁴⁵ Nevertheless, it is reasonable to think that the committee's views and recommendations at least had a share in influencing changes which were made. The whole point of the committee's work, unlike that of a royal commission, is to exercise its influence over time, not through the medium of one or two reports but by gradual persuasion of those who are in a position to effect change.

Finally, in looking at the committee's recommendations, it is striking that so few could be implemented by a corporation alone. Most required the approval, even initiative, of the government. Low-level organizational changes are among the obvious, but few, exceptions. Otherwise, even on topics which might at first sight seem to be within a corporation's jurisdiction, such as the formulation of long-term plans or the avoidance of cross-subsidization, it is most unlikely that government would not want to have a say. This is not a remarkable conclusion, because the autonomy of these and other B.C. crown corporations is really quite limited. The government has a whole repertoire of instruments for ensuring control: control of capital budgets and borrowing; control of rates, fees and charges; specification of accounting requirements; appointments of board members, which may include ministers or civil servants; and use of formal or informal directives.⁴⁶ It is outside the scope of this article to discuss whether or not the amount of control is excessive. What is at issue here is how, since corporations and the government do work so closely together, the committee could avoid inquiry into the governmental component. In the Act creating it two requirements suggest that, constitutionally, it did not need to do so. One is its mandate to "generally inquire into and examine the management, administration and opera-

⁴⁵ *British Columbia: Debates . . .*, *op. cit.*, p. 4957.

⁴⁶ Langford and Swainson, *op. cit.*, pp. 77-83.

tion of each corporation." The other is to give primary consideration to "the responsibility of the Crown in respect of the corporation."⁴⁷

In point of fact, the committee sometimes criticized publicly-stated government policy. It drew attention to the fact that the Minister of Finance, acting as the fiscal agent of B.C. Rail, attempted to borrow \$(U.S.) 100 million on its behalf without its knowledge. The committee also asserted that section 59 of the Financial Administration Act went too far. In the case of B.C. Rail it was concerned that the powers contained in this section "could go beyond the necessary degree of financial control and permit the Minister of Finance and his officials to affect adversely the ability of directors and managers of Crown corporations to manage current affairs and plan for the future in a consistent and effective manner."⁴⁸

How far *ought* the committee to have gone in criticizing the government? There must surely have been some ultimate limit to questioning the government's right to make policy decisions, and the committee was aware of this. "It is beyond the mandate of the committee to judge the astuteness of the public investment in the Tumbler Ridge branchline or in other aspects of the Northeast Coal development project. These decisions are made by the government of the day and are appropriately defended in the Legislature."⁴⁹ When a cabinet decision was identified, usually this was enough, and no further questions were asked. There seemed to be general agreement among members of both parties on the committee that some government policies had to be taken as given. On the other hand, a government member conceded that government policy concerning a corporation could be queried if it were "a real disaster."

The fact that the committee was reasonably successful prompted the question: could it have been even more successful if it had been given more to do? A common suggestion, also put forward by the committee itself, was that it should extend its scope over other crown corporations. Most of these, however, differ from the four which it scrutinized in an important respect. It was not just the size of a corporation's operations that made scrutiny by the committee particularly desirable, but also the degree of public concern about it. The four which were under the com-

⁴⁷ *Crown Corporation Reporting Act*, 2(1) and 2(3)(c).

⁴⁸ *Committee on Crown Corporations, Fourth Annual Review of Operations*, *op. cit.*, p. 8.

⁴⁹ *Committee on Crown Corporations, Report on the Inquiry into British Columbia Railway*, April 20, 1982, pp. 5-13.

mittee's scrutiny are eminently politically sensitive, while others have little direct impact on the daily life of most citizens in the province. An even grander conception of the committee's role would have entailed expansion of its functions to include *all* government operations, on the analogy of Government Operations Committees in the United States Congress, or as an almost straight replacement for the PAC, except for that committee's strict "scrutiny-of-accounts" function. A more modest addition to the committee's scope would have been to charge it with the task of seeing that corporations consulted together over plans that were interrelated, for example, on the siting of dams so as to avoid flooding possible rail routes. Alternatively, the committee might have undertaken to promote not only co-ordination but also discussion of common problems of management and accountability by encouraging the formation of a committee of top crown corporation officials, along the lines of the British "Nationalized Industries Chairmen's Group."⁵⁰

However, proposals to extend the committee's "powers" were one thing, but it would have been quite another thing to contemplate increasing its "power," its "clout" in its dealings with other individuals and organizations. Setting up a committee with a budget for an adequate staff, a degree of permanence for chairman and members, and a mandate to produce reports and recommendations is only the first step toward achieving an impact.⁵¹ Even if reports had been debated in the Legislature, this would have constituted only one other step; they might have been debated, faintly praised, and then completely ignored. For such a committee to exercise more "power" it would have had to be able to influence the actions of those who actually wield it, namely, on some issues the corporations themselves, but on all important issues the government as well.

How realistic is it, in a parliamentary system such as that of British Columbia, to expect that a committee of the Legislature can significantly affect the actions of the executive? It is a truism that the role of a legislative committee must be dictated largely by the state of legislative-executive relations in general.⁵² In British-type parliamentary systems (not to say authoritarian ones) the dominance of the executive, re-

⁵⁰ Tivey, *op. cit.*, pp. 43-44.

⁵¹ See Claude Forget, "The Scrutiny of Public Expenditures," *Parliamentary Government* 3 (Spring 1982), p. 5 (on Québec).

⁵² See the classification scheme in George Goodwin, *The Little Legislature: Committee on Congress* (Amherst: University of Massachusetts Press, 1970), pp. ix, 265.

inforced by party discipline, condemns legislatures to what in the last analysis is a subordinate role. This in turn limits the powers of legislative committees, including those concerned with crown corporations. The corollary has often been stated. If politics is about power, why should an executive which wields power encourage committees with real investigative functions to criticize its use, and possible abuse, of power? Why should it fashion a rod for its own back? Of course, this is not quite the whole story. In democracies with a history of free speech, minority rights and official oppositions, there must be a place for critics. But is there also an obligation to listen to them or to act on what they suggest?

Some of the implications are illustrated by the experience of the Select Committee on Nationalized Industries (SCNI) in Britain. Established in 1956,⁵³ it was abolished in the reshuffle of the House of Commons committee system undertaken soon after the Thatcher government took office in 1979. Initially the scope of its operations was limited, but gradually it extended its field to cover inquiries into policy issues. It was responsible for a greater number of government organizations than its B.C. counterpart, and investigated questions which were broader in scope: the possibility of appointing a Minister of Nationalized Industries; pricing and investment policies for the industries generally; board members' selection, pay and conditions of service; and relations between government (including ministers and civil servants) and the industries, to name just some examples. Unlike the Crown Corporations Committee, it heard testimony from both ministers and civil servants, increasingly at hearings open to the public. In its final years, especially, its reports were rarely debated in the House.⁵⁴ Like the B.C. committee, it made use of subcommittees. Unlike it, its staff was small, considering its responsibilities, but was supplemented by hiring specialists for particular tasks.

The SCNI, like other committees with investigative functions, did not fit into the "adversary" pattern of government-opposition relations in the House of Commons. As was said of British legislative committees generally, the "Commons as at present constituted . . . is jealous of any-

⁵³ It had several predecessors in the early 1950s with more limited functions. On these and on the early years of the committee, see David Coombes, *The Member of Parliament and the Administration: The Case of the Select Committee on Nationalized Industries* (London: Allen and Unwin, 1966); Kenneth Bradshaw and David Pring, *Parliament and Congress* (Austin: University of Texas Press, 1972), pp. 234-35.

⁵⁴ Douglas E. Ashford, *Policy and Politics in Britain* (Philadelphia: Temple University Press, 1981), p. 48.

thing which might seem to derogate from the primacy of the House itself and which might seem to qualify the party warfare which is its staple diet.”⁵⁵ Pushing this view to its limits, one could say that select committees, including the SCNI, were inevitably either a bore or a nuisance. In the British House of Commons⁵⁶ (as in its Canadian⁵⁷ and B.C. equivalents) a committee can hope to be seen as an independent source of criticism and advice only on condition that its recommendations are bipartisan. This applied to the SCNI, but the question remained: could this kind of advice be acceptable as a basis for action in the wider arena of the Legislature, where the “majority model” holds sway?⁵⁸ Such committees, it has been remarked in Britain, can “exist and operate in a kind of bi-partisan limbo, remote from the main House, unencumbered with its procedures and deeply unsure of their role.”⁵⁹ But, if they want their ideas to penetrate to the Legislature as a whole, the fragility of the partisanship is revealed, as is illustrated by some examples concerning the SCNI.⁶⁰

However, in interpreting the British parliamentary system, it would be wrong to place too much reliance on abstractions from a “majority model.” Unlike British Columbia, Britain’s Parliament for hundreds of years has included committees covering a wide range of government activities and involving a large number of members. That they have a role is undisputed, although differences of opinion may exist about its exact scope. During the 1970s the SCNI lost some steam, as it were, but its disappearance was not the consequence of a considered calculation that it was obnoxious or useless, although when the committee system was remodelled on a basis of departmental select committees there was no longer a place for it. The new system provided for scrutiny of individual nationalized industries, or even of some aspects of the industries’ operations across the board, for instance their financing, by an appro-

⁵⁵ S. A. Walkland, “Whither the Commons?” in S. A. Walkland and Michael Ryle, eds., *Parliament in the 70s* (London: M. Robertson, 1977), p. 250.

⁵⁶ Nevil Johnson, “Select Committees as Tools of Parliamentary Reform: Some Further Reflections,” in Walkland and Ryle, eds., *op. cit.*, p. 196.

⁵⁷ Jackson and Atkinson, *op. cit.*, p. 148.

⁵⁸ Johnson, *op. cit.*, pp. 197-98.

⁵⁹ Walkland, *op. cit.*, p. 246.

⁶⁰ Peter Kellner and Lord Crowther-Hunt, *The Civil Servants* (London: Macdonald and Jane’s, 1980), p. 254. S. A. Walkland, “Whither the Commons?” in S. A. Walkland and Michael Ryle, eds., *The Commons Today* (London: Fontana, 1981), p. 301.

priate committee. But, for the most part, the possibility of taking a general view of what these organizations were doing was lost. Provision was made for this function to be performed by a subcommittee, drawn from several of the new committees, but the relevant House of Commons order authorizing this was never invoked.⁶¹ To constitute it would have meant overlapping with the functions of the other committees, thus posing a threat to their "territory" as well as taking up more of the members' time. Moreover, so diversified had the operations of the industries become that it was now more and more difficult to make generalizations and recommendations which would apply to large numbers of them.

To summarize: the SCNI did valuable work; its efforts were appreciated by the industries concerned, and they went on record as regretting its departure; it was not, finally, killed off by the executive, but, rather, replaced, most of its functions being continued by other parliamentary committees.

In contrast, the conduct of politics in British Columbia is only minimally restrained by the traditional civilities found in Britain. Executive dominance prevails, as is shown, for instance, by the increasing size of the cabinet compared with the number of backbenchers in the government party.⁶² The Social Credit government's dedicated commitment to executive dominance was affirmed by its decision to raise money for the coming 1983-84 fiscal year by decree without convening the Legislature.⁶³ The stage seems to have been reached when British Columbia governments do not pay even token respect to upholding the dignity of Parliament.⁶⁴

In such an unpropitious political climate, it is easier to see why the Crown Corporations Committee was in effect abolished than to understand how it ever came into being. However, the motives behind its creation were maybe more complex than was evident at the time. The

⁶¹ *House of Commons, First Report from the Liaison Committee, Session 1982-83, The Select Committee System* (London: HMSO, 1982), pp. 16 and 123-25.

⁶² Campbell Sharman, "The Strange Case of a Provincial Constitution: The British Columbia Constitution Act," *Canadian Journal of Political Science* XVII (March 1984), 87-108.

⁶³ David Harris, "Ruling Was in Error," *Vancouver Sun*, 14 October 1983. See also other articles in the same newspaper in 1983, particularly 31 March, 24 September, 29 September, 3 December.

⁶⁴ J. Terence Morley, "British Columbia's Political Culture: Healing a Compound Fracture" (paper delivered at the B.C. Project Symposium, Vancouver, 5 June 1983), pp. 9, 15-16.

Social Credit Party may have desired to convey an image of modernity and efficiency to replace the personalistic and paternalistic image fostered under the current Premier's father, Premier W. A. C. Bennett. A concern of this sort may, perhaps, also explain its creation of the B.C. Buildings Corporation and the B.C. Systems Corporation.⁶⁵ In the legislative sphere, the new Crown Corporations Committee may have been intended to emphasize the break with the recent past, when the Legislature's proceedings were not even fully reported in a *Hansard*. There could be a parallel, on a higher level of sophistication, in the actions of Harold Wilson's re-elected government of 1966, which set up a new Select Committee system and appointed a Parliamentary Commissioner (Ombudsman). According to an observer, to some extent these changes were introduced "because the Prime Minister felt that they were part of the reforming image the Labour Party was trying to acquire in those years."⁶⁶ Additionally, the realignment and polarization of parties which had occurred in British Columbia during the previous decade might also have led to the transfusion of some relatively sophisticated ideas to the Social Credit Party.⁶⁷ A further possible reason for creating the committee could be found in the remarks of the Premier when introducing the necessary legislation.⁶⁸ They seemingly implied that the existence of such a body would help to deflect from the government some of the responsibility for the actions of the corporations which the public (often quite correctly) still tends to attach to government.

To reach some understanding of why the government changed its mind and dispensed with the committee, we first need to know in what ways its work had failed to meet expectations. But what *were* these expectations? When he established it, the Premier's ideas about how it would operate were not too clearly articulated. The committee "would perhaps be the best combination of the committees under the British parliamentary system and the type of committees that we [*sic*] have

⁶⁵ Langford and Swainson, *op. cit.*, pp. 72-73.

⁶⁶ John P. Mackintosh, *Specialist Committees in the House of Commons: Have They Failed?* (Edinburgh: Waverley Papers, University of Edinburgh, 1971), p. 12.

⁶⁷ For example, there were proposals in the 1972 B.C. Conservative Party Manifesto for an Ombudsman, an Auditor-General and an independent regulatory commission for energy. The 1975 Social Credit B.C. Manifesto contained items favouring the creation of an Ombudsman and an Auditor-General and provisions to ensure disclosure of crown corporations' budgets and finances. The author is indebted to Dr. Norman Ruff for this information.

⁶⁸ See pp. 24-25 above.

under the American system of congressional committees,"⁶⁹ he said. Tantalizingly, he refrained from being more specific.

To be sure, the committee's *de facto* elimination was presented as part of a package of "economy" measures. However, to eliminate a *spending* organization is one thing; to eliminate what was essentially an organization for *monitoring spending* is another. A speculation, implausible in many other political settings but not completely so in British Columbia, is that one reason the Premier set up the committee was that when his party had to go into opposition it would provide a useful base from which to attack the new government; his effective elimination of the committee in 1983 therefore amounted to a proclamation of his government's invulnerability! With the Premier's greater confidence, the committee's virtual demise could be linked to the government's having found its activities irksome and inconvenient.⁷⁰ Some of its recommendations were not to the government's liking, according to one committee source. Moreover, the committee's comments and recommendations revealed just how great the government's control over the corporations really was. Consequently, instead of the committee's work helping to deflect responsibility from the government, it may have carried the too obvious implication that government responsibility should accompany government control. It is perhaps significant that, although certain provisions of the Act creating the committee indicated that it was within its mandate to call on appropriate ministers and civil servants to testify before it,⁷¹ unlike the British SCNI it did not attempt to do this.⁷² Perhaps its reluctance indicated its acute perception of the prevailing atmosphere of executive dominance. Indeed, if it had tried to insist on such testimony, it might not have survived even as long as it did.

⁶⁹ *British Columbia: Debates . . . , op. cit.*, p. 4945.

⁷⁰ The government's actions both broke a commitment and violated a law. The Premier had pledged that the committee's work would not be impaired by a budget cut (*British Columbia: Debates . . . , op. cit.*, p. 4958). Also, when staff appointments were terminated (p. 24, above), contrary to the Act creating the committee, which stated that it needed no other authority to spend money, simultaneously its budget was slashed by two-thirds. The committee budget had always been included with that of the House itself, which needs no vote.

In February 1984 the B.C. Ombudsman, who had been critical of several ministers and a target for Social Credit backbenchers, said that his budget had been cut and that he had lost ten out of forty-three staff (*Vancouver Sun*, 24 February 1984). When his term of office ended in June 1985 the government did not reappoint him (*ibid.*, 4 July 1985).

⁷¹ See footnote 47, above.

⁷² The only attendance by a minister before the committee (at a hearing on B.C. Ferry) was in his capacity as chairman of the board, not as a minister.