

Bylaws and Setbacks: The Oil Industry and Local Government in British Columbia¹

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The relation between private groups and public officials is generally recognized as a major aspect of the governing process in democratic societies. Although perceptions of private group influence in the political process are clearly important in actual politics in British Columbia, there have been few relevant studies by social scientists at either the provincial or local level in the province. This paper deals with the relation between the oil industry and local government in British Columbia; it examines the amount and nature of influence exerted by the oil companies and considers the methods used and problems faced by the companies as they deal with local governments. As will be seen, the decisions of local government of main concern to the oil industry are those affecting the selling of gasoline; in addition, a particular decision made by the City of Vancouver has been especially significant within the last few years.

Although the word "lobbying" still brings to some minds the notion of "a degenerate process of intrigue,"² it seems virtually beyond dispute that interaction between private spokesmen and government officials is a necessary and legitimate part of democratic government — perhaps especially in complex urban settings. Governments devote much effort to informing private groups about proposals which may affect private interests and in British Columbia, as elsewhere, there are numerous advisory bodies formed by governments and which include representatives of private groups. An extreme, but relevant example of legitimized private participation in public decision making is provided in the *Municipal Act* of

¹ This paper is an expanded version of one presented to the Conference on the Interplay of Municipal and Industrial Decision Makers sponsored by the U.B.C. Geography Department, September 21, 1970. I am grateful to Dr. R. J. Claus of the U.B.C. Geography Department and to a number of oil company officials for providing data for this paper.

² Helen M. Muller, *Lobbying In Congress* (New York: H. W. Wilson, Co., 1931), p. 7.

British Columbia; section 863 of the Act goes so far as to prevent local governments from taking certain actions affecting gasoline service stations unless a majority of station operators approve.

The voice of the oil industry in its relation with local governments in British Columbia is the Petroleum Industry Committee (PIC). The PIC is a permanent body composed of representatives from each of the larger companies operating in the province: Imperial Oil, Shell Canada, Royalite Oil Company, Gulf Canada, Home Oil Distributors, Standard Oil of B.C., Pacific 66, Union Oil, and Texaco Canada. Ownership and control patterns within the industry are not directly visible in the composition of the PIC — as would be the case were such related companies as Imperial Oil and Home Oil Distributors, or Gulf Canada and Royalite Oil Company, or Pacific 66 and Union Oil normally represented by a joint delegate. At times, however, one delegate may for a time serve on the Committee as the representative of two related companies.

In formal terms the PIC is not a committee of the oil industry at all, nor is it an organization whose official area of concern is the entire province; in formal terms it is a standing committee of the Vancouver Board of Trade. It meets in the Board of Trade Building; its files are kept there; and the Board provides the Committee's part-time secretary. In actual terms the Board of Trade exerts no influence over the composition or activities of the PIC and the Committee concerns itself with local governments (of which there are now about 160) throughout the province.

The purpose of the PIC is essentially that of acting as a channel of communication between the industry and local government in the province. To a lesser extent the Committee acts as a channel within the industry; but this secondary role is limited since the members of the PIC are not senior executives within their companies and since the questions related to the selection of gasoline service station sites and the design and construction of service stations, the questions which the PIC members are responsible for within their own companies, are ones relating directly to sales competition between companies. The provisions of Canadian anti-combines legislation also serve to limit the role which the PIC may play within the industry. In its internal decision making the PIC functions essentially as a gathering of equals. The chairman exercises no special powers. Votes are at times taken in the reaching of decisions, but usually the matters coming before the Committee are such that all members respond in a similar fashion. There is no evidence to suggest that the larger companies dominate the Committee. Preparation of reports, the gathering of information, and the communication with individual local

governments are usually delegated to one or two members who act on behalf of the Committee.

In terms of general stance toward the government, groups such as the PIC may be classified as either offensive or defensive. Offensive groups are those which urge new actions on a government, actions which are not part of the established policy of that government and which would not likely be undertaken by the government if left to itself. Defensive groups are those which go into action in response to governmental actions — actions which are, or which will become, part of established government policy and which would not be altered by the government if left alone. Despite what may be the popular image of oil companies — an image perhaps based on such aggressive symbols as the “tiger in your tank” and on tales of effective oil lobbying at the national levels of government in America and Canada — the PIC is definitely a defensive organization in its stance towards local government. It may be characterized as a receptor picking up information about proposed or actual actions of local government, chiefly new bylaws, and then, once the companies have assessed the situation, acting as an agent seeking to have the government make any changes the industry feels desirable. One continual difficulty faced by the PIC is in obtaining sufficient advance notice of bylaw proposals, although this difficulty is much less evident as far as Vancouver is concerned than it is in the case of other municipalities.

An examination of PIC activities during a five year period beginning in January 1965 forms the basis for the remaining analysis in this paper. This period is both recent enough and long enough to provide insight into current activities of the PIC. During the period the Committee held 59 meetings and dealt with some 45 separate items. Of these items only 10 were cases not involving initial action by an individual municipality to which the PIC considered responding. Of the 10 items, three were considered not appropriate for Committee consideration (these items concerned introduction of self-service gasoline pumps in Vancouver, regulations affecting service station operation on controlled access highways, and a request from another organization that the PIC discuss promotional give-aways on behalf of the industry); two concerned station identification signs on provincial highways; one concerned industry public relations affecting attitudes of local government; and several concerned provincial regulations. None of these 10 items received more than brief consideration.

Almost all of the PIC's activities during the period consisted of at least considering, and usually making, responses to actions by individual muni-

cipalities. Of the 35 cases forming the bases of this activity, 20 arose in municipalities in the lower Fraser Valley; nine arose in Vancouver Island municipalities; and six arose in municipalities in the remainder of the province. This distribution of cases roughly equates with the distribution of gasoline sales volume in the province; it is affected to some extent also by the fact that members of the PIC, each of whom has his place of work in Vancouver, are able to be better informed about events arising in or near Vancouver than about those arising elsewhere. No particular municipality stands out in terms of frequency of action by the PIC, although, as has been stated, one particular case in Vancouver does stand out in terms of significance to the PIC and the industry during the period.

Although it is not possible to determine the precise success rate of the PIC in these 35 cases, the general degree of success is quite apparent. In 18 cases the matters were evidently perceived as minor and were dealt with only briefly; for these cases the Committee's records do not indicate whether there was subsequent action on behalf of the PIC. In some of these cases the Committee merely sought further information; in still others, perhaps six or eight, one may infer that subsequent action was not taken because it was thought futile or that subsequent action was taken but unsuccessfully. An informed guess, then, would suggest that in minor matters the cases of successful PIC action were about equal in number to the unsuccessful ones. As for the remaining 17 cases, that is those which were considered important by the PIC, Committee records clearly indicate only two fully successful actions; in a number of other cases, perhaps eight or nine, at least some changes were evidently made as a result of PIC action. In several cases results were not yet apparent at the end of the five year period. In some half dozen of these more important cases the PIC was definitely unsuccessful. The major point, however, is that these unsuccessful cases included those regarded by the PIC members as the most significant and important to the industry among those which arose during the period. The PIC, then, must be seen as something less than an outstandingly effective interest group.

In its contact with local government the PIC deals almost entirely with appointed officials, primarily those responsible for town planning, although engineers, fire department officials, and city clerks are also involved. Elected officials are seen rarely, and usually only when those officials are participating in public hearings or when a matter comes before a council in the final stage of the decision making process. In their attitudes PIC members display a noticeable degree of respect for the local officials, both elected and appointed, and in their dealings with them are

highly deferential. In part these traits may result from the circumstance of the PIC members being junior executives who lack both the formal education and technical expertness of most appointed officials with whom they deal. As far as elected officials are concerned the traits of the PIC members may rest on nothing more than lack of familiarity with the elected officials. In any case, the PIC displays a general predisposition to avoid pressing action to the point of creating obvious conflict with local government officials. There may in fact be more general circumstances explaining the hesitancy of large corporations such as the oil companies in British Columbia to stand up to local officials — these circumstances will be mentioned later.

The 35 cases fell into categories relating to four classes of local regulations. These, with the number of cases in each, were: those affecting land use through zoning decision (10 cases); those affecting construction and operation of service stations (9 cases); those affecting hours of sale for gasoline (10 cases); and those directed towards restricting the number of service stations within all or part of a municipality (6 cases). Although the four classes of regulations are of major and equal importance to the oil industry, the zoning regulations and the construction and operation regulations took much less time and effort of the PIC than did the hours of sale regulations and the restrictive regulations. The 10 zoning cases contributed to only 17 items of business in Committee meetings. However, individual PIC members in some of these cases spent a great amount of time with local planning officials. The PIC normally confined itself to seeking changes in general zoning regulations, leaving questions concerning specific service station sites to be handled by the company affected. (In seeking zoning changes for specific sites the companies usually come into conflict with irate neighbours of the proposed new service stations. The local councils usually side with the neighbours. Thus even the largest companies are often ineffective in face of the "neighbourhood veto" exercised by a few score individual citizens.)

Of the nine cases relating to regulations affecting service station construction and operation all but one were minor. Three of them involved location and type of advertising signs and the remainder involved traffic control, appearance of buildings, and "set-backs" of facilities from property boundaries. The major case arising in this class of regulation involved fire control regulations in the City of Vancouver. The matter had been a concern of the PIC for several years preceding the period under examination. Essentially the PIC complaint rested on the fact that these regulations were much stricter in Vancouver than in other North Ameri-

can cities and that there was no demonstrable basis for a number of the specific regulations. During the period under study eight meetings of the PIC were devoted in whole or in part to this matter. The Committee presented the results of a number of studies by companies and consultants to Vancouver officials and sent some briefs to provincial officials as well. At the end of the five year period the major changes desired by the industry had not been made, although some modifications had been made in the regulations.

The question of regulated hours of sale for service stations is a peculiar one. It exists in the immediate instance because of the provision in the *Municipal Act* which has been mentioned; however the provision was presumably inserted in the Act in the first instance at the request of a particular group. Service station operators are the group which benefit from the provision. Section 863 of the Act provides that a local council may allow service stations to remain open only until 7 p.m. in the winter and 9 p.m. in the summer. These hours may be extended only when the majority of station operators, and this means the local station owners or managers, not the companies, approves of the extension in a secret vote administered by the municipality. This provision is unique in the Act: it applies only to the gasoline retail trade.³ It is the PIC which acts for the industry when it requests municipalities to hold the required plebiscite. During the 1965-1969 period the PIC dealt with 10 hours of sale cases; these involved nine municipalities in which the Committee believed there was at least some chance that the hours of sale might be extended. (In most other municipalities in the province the operators had approved the extension of hours of sale.) In only one of the ten cases was the industry successful in persuading the operators to agree to extended hours; although in only three cases did the matter get to an actual plebiscite. The PIC even met with the deputy minister of Municipal Affairs to seek changes in the legislation, but to no avail.

The two hours of sale cases which arose in West Vancouver provide examples of PIC failure and success. In January 1965 the Committee discussed the possibility of having hours of sale extended in the municipality. Five months later the companies requested their dealers to sign a petition asking for a plebiscite. By the end of 1965 most of the dealers had signed the petition and had indicated to their companies that they would vote in favour of the extension. The petition was presented to the West Vancou-

³ British Columbia, *Municipal Act 1970*, sec. 863. The Act stipulates closing hours for other retail outlets, but local councils are empowered to extend hours in all these cases without any plebiscite among the retailers affected. Cf., secs 858, 859, and 861.

ver council. By April 1966 the council had agreed to hold a plebiscite. It was held in August and September. The dealers voted 12 to 8 against the extension. One year later the PIC began discussing the matter again. By May 1968 the Committee had decided upon a second try, and another plebiscite was held in July 1968. This time the dealers voted 13 to 10 in favour of extended hours.

In contrast to the hours of sale provisions and to the other local regulations which have been discussed, local regulations serving to restrict the number of service stations in a municipality are in a certain sense extralegal, since there is no provision in any provincial statute expressly empowering local councils to enact regulations of the "restraint of trade" variety. For this reason the attempt by municipalities to restrict the number of service stations might be thought to violate the legal doctrine that municipalities, being creatures of the province, have no powers not expressly delegated to them by the province. In addition it might be thought that municipalities, which are usually seen as inconsequential in Canadian economic and political processes, should be making decisions so vital to the well-being of giant national or multi-national corporations. Nevertheless, local councils do have and use the power to restrict numbers of service stations. This actual power results from the legal power to regulate land use through zoning regulations.⁴ Thus the six cases in which British Columbia municipalities considered restricting the numbers of service stations during the 1965-1969 period appear on the surface as simple zoning cases; but they were much more fundamental and were seen by the oil industry as of the utmost significance.

Five of the six cases (those arising in Prince Rupert, Burnaby, Nanaimo, Squamish, and Surrey) did not come to any final conclusion during the period. The case arising in the City of Vancouver, the most important gasoline market in the province, did come to a conclusion — and to a conclusion contrary to that desired by the PIC. Of all the cases dealt with during the five year period by the PIC this case is seen in retrospect by PIC members as the most important one. Sixteen PIC meetings dealt largely or entirely with this case and much effort outside meetings was devoted to it. It is therefore worth analyzing in detail.

⁴ The gasoline retail industry is not the only one in which trade is restricted by municipalities. Limitation of the number of taxi cabs through local licensing powers is perhaps the most common other example, although there are others as well. Cf., Eric Todd, "Legal Aspects of Site Selection, Development and Operation of Automobile Oriented Business," paper presented to the Conference on the Interplay of Municipal and Industrial Decision Makers sponsored by the U.B.C. Geography Department, September 21, 1970.

From the industry's point of view it is highly relevant that the number of service stations in Vancouver had already been declining for a number of years. In late 1968 the number of stations had diminished by ten per cent during the preceding five years (although gallonage sold had increased by 14 per cent). One of the major companies had closed at least 18 stations during the period and established only two new stations. From the industry's position, then, the reasons for the City's attempts to take positive action to reduce the number of stations were never adequately justified. The PIC first learned of the City's intentions in March 1967; the information was obtained by a PIC member from an appointed civic official. The PIC immediately prepared a brief opposing the action and presented it to the Director of Planning.

In May, not having gained its point at the administrative level, the PIC sent the same brief to the Mayor — a rare action on its part. There was no response from the Mayor, who was in any case not identified with the City's proposal. (In fact PIC members were never fully aware of the original source of the proposal; presumably it came from within the Planning Department, although several aldermen were known to have made public statements hostile to the oil companies.) On June 8 the PIC met with the Deputy Director of Planning and with the planner in charge of zoning. Further lengthy meetings were held with planning officials on June 19 and 26.

On July 18 the PIC met to review the situation. It was agreed that the planning officials were now fully aware of the PIC position, but that the City's objective remained unchanged. On October 10 and 23 meetings continued with the planning officials. In these meetings, as in the previous ones, each side would present positions, discussion would follow, and revised proposals would then be presented. On January 18, 1968 yet another meeting was held, this time to acquaint a newly-appointed senior planning official with the whole question. During the following months at least five further meetings were held with planning officials.

By this time the specific intention of the civic officials was clear; it was to remove gasoline service stations from the category of enterprises automatically permitted in commercially zoned areas and locations in Vancouver and to place them in the category of enterprises for which specific civic approval was required in every individual case of establishing on a new site or of modifying structures on established sites. In planning terminology gasoline service stations were to be removed from the permitted use category and placed in the conditional use category. Since conditional

use decisions are normally preceded by public hearings the spectre of the neighbourhood veto was raised, quite aside from the fears private industry could be expected to have of detailed government participation in hitherto internal company decisions. Although the PIC had not been able to reverse this intention of the civic officials, its members did believe that the long discussions with the officials had resulted in the development of a set of policy guidelines which would ensure that the officials would not act in ignorance of the industry position or in an excessively arbitrary way. In September 1968 these guidelines were embodied in the Report of the Director of Planning to the Technical Planning Board and to the Board of Administration. The main point of this report was that the Technical Planning Board would be the body to decide upon conditional use applications by oil companies. The Technical Planning Board, not to be confused with the Town Planning Commission, is the main internal administrative coordinating body within the civic administration; it includes the heads of departments and its chairman is the Director of Planning. Thus the PIC members were confident that the officials in the Planning Department would be the officials in charge of decision-making on conditional use.

On October 1 this confidence was shattered when the City Council, in its first consideration of the matter, decided that the Council itself would have and exercise the authority to decide upon each conditional use application by an oil company. Members of the Council had played no part in the discussions with the PIC and members of Council were not even moderately well-informed about the subject and conclusions of these discussions. This change of events led the PIC, after two further meetings with planning officials, to hire a lawyer and former alderman to present its case to the Council. Whether he met privately with members of Council is not clear. On December 5 he appeared before the Council and urged that the Technical Planning Board be given the authority to decide upon applications from the oil companies. He stated:

All the work that has been done to date has been directed to establishing ground rules for location of service stations and out of this work recommendations have been made which would establish a policy — and surely this is the prime purpose and responsibility — that of establishing a policy; but [the Council] is suggesting that having established a policy, then the Council administer that policy, and, if necessary, refer it to a public hearing. This seems to me, with respect, to completely negate the purpose of setting a policy at all and throws the matter back to Council to deal with each site as applications are received. . . . The Industry has confidence in your officials to carry

out your policy and respectfully submit that Council should have the same confidence.⁵

The Council did not agree with the PIC submission. Bylaw 4395 was passed lodging in the hands of Council itself final decisions on the enlarging, re-location, and establishment of gasoline service stations in Vancouver.

While the case of Vancouver bylaw 4395 was more significant than other cases, it was unique only in that it brought together and revealed more fully than did other cases the various aspects of oil industry-local government interaction in British Columbia.⁶ The proposal came from the civic government and the industry was continually on the defensive as the case progressed. The industry dealt almost entirely with appointed government officials; with these the industry spokesmen saw themselves as able to conduct a meaningful dialogue, even though there was never any substantial hope that the industry's position would be accepted. The industry dealt hardly at all with elected officials and the industry spokesmen did not see themselves as competent to communicate effectively with the elected officials, but instead hired an expert lobbyist. It is noteworthy that there was never any suggestion within the industry that senior company officials would either take part in the discussions with appointed officials or communicate privately or publicly with the elected officials. The private and public bureaucracies communicated through channels of bureaucratic competence — neither political nor social channels were in evidence as supplements or alternatives.

Elected and appointed officials were unified primarily in their skepticism that the industry, on its own, would make appropriate decisions. The elected officials, however, even though they themselves were not knowledgeable about the issue, were not confident that the appointed officials would make appropriate decisions either, and so did not leave the decisions to the Technical Planning Board. Yet it is equally evident that the appointed officials did not view the elected officials as necessary participants in the application of the bylaw. The elected officials were thus not in meaningful communication with, nor did they have confidence in,

⁵ "Brief of Mr. W. Street to Vancouver City Council, December 5, 1968," (in PIC files).

⁶ That this was so results in part from Vancouver's having the same structure and style of government as have all other municipalities in the province — except those based on a village type of social system. The common structure, despite varying local terminology, is the city manager form, and the common style is based upon the non-partisan ideology. The major cities in most other Canadian provinces have different structures and styles of government than do other municipalities in their provinces.

either the appointed civic officials or the private group involved. Within British Columbia local government this circumstance is not unusual.

The gap between councils and administrators, which is given formal recognition in the city manager form of government, and the isolation of councils from private interest groups have a common foundation in the non-partisan ideology which dominates British Columbia politics generally. This ideology rests on the view of the community as a unified corporate whole composed of individual citizens; interest groups and political parties are seen as coming between community and individuals in such a way as to distort or suppress the true interests of the "average citizen" or the "little guy." Council members are seen as independent spokesmen for the whole community — uncontrolled and untainted by pressure group or party. The view that the elected official who is out of touch with interest groups is out of touch with the community is held in the province only by a few struggling urban reform groups. In the absence of links with community groups and in the absence of stable majorities within councils (the latter feature a direct manifestation of the non-partisan view that elected officials should act "according to conscience") the councils have neither the knowledge, the public support, nor the organizational means to guide civic administrators.

This situation leads to a vicious circle. Council members may come to resent the administrator's superior knowledge and may attempt, as in the case of bylaw 4395, to substitute their own casual opinions in place of the administrators' recommendations. Ironic but illustrative of this point is the fact that since the passage of bylaw 4395 the Vancouver Council has accepted, in every case of an oil company's application, the recommendations of the Director of Planning and the Technical Planning Board. The result is further erosion of the confidence that appointed officials and the public have in the councils. Appointed officials, who are in close touch with community groups, are led naturally to look upon council participation in regulating these groups as frivolous and unnecessary.

The question of why the oil industry is defensive and basically ineffective in dealing with local government in British Columbia is answered in part, then, by the dominance within local government of administrative officials who are guided by contemporary technical and professional values rather than by the values of free enterprise capitalism. Equally important, however, is the nature of oil industry leadership within the province. There may be corporations whose names are so linked with provincial development that their mention will cause the local official to support any proposal of these corporations as a matter of civic duty —

but the oil companies are not among these corporations. There may be families so prominent in the province that their members may approach governments with justified self-confidence — but oil company senior executives do not belong to them. The senior executives in the oil companies are temporary residents in the province — on their way to higher positions or, if better things have been denied, posted to Vancouver as a pre-retirement bonus. In either case their essential reference point is the corporate head office. Were the British Columbia branch managers to press their demands upon local government to the point of engendering publicly perceived conflict, the resulting effect upon the local corporate image would be seen in the head office as a certain sign of managerial incompetence. The modern managers, especially branch managers, are worlds apart from the entrepreneurial profiteer; not for them the attitude that governments be damned (or bought).⁷

⁷ For a more general discussion of this conclusion, see Norton Long, "The Corporation, Its Satellites and the Local Community," in Oliver P. Williams and Charles Press, (eds) *Democracy in Urban America*, 2nd ed. (Chicago: 1969), 53-61.